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EASTERN

F.O.  
371

1948

PALESTINE

FILE No. .... 38

to pp. .... 5777

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1948

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PALESTINE

E 38 2  
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Number

FROM

No.

Dated

Received  
in Registry

E 38/38/31

60  
Dated

1 Jan

Particulars assets in Palestine  
 Ptd to 1311 of Dec 15. Refers to  
 3022 of 18/11 (E 11434/11091/31) New transmit  
 Payments on Ptd.

Last Paper.

E 12343/11091/71

References.

68626

(Print.)

(How disposed of.)

(Action  
completed.)

29/1

(Index.)

31/1/49

Next Paper.

104

(Minutes.)

7/1/48.  
 Economic Warfare Dept. First  
 German General Dept. 12/1  
 E. R. Dept. has been an answer to  
 German Finance Dept. 12/1  
 J. S. Burt  
 Dan 5

Luckily for E.W. Dept., they do not  
 deal with German assets in Palestine and  
 can therefore offer no useful comments on  
 this telegram. 7/1/

This is more properly for  
 German Finance Dept (Property  
 Control). 12/1

No. I suggest German General  
 Econ. Dept. 8. Pollack.  
 20/1.

Miss Rael.

2940 F.O.P.

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The problem is largely one of the Treasury who are, I understand, sending out Mr. Abbott a request para. 20.

I suggest Refugee Dept. should be the pp. as they way be interested in the centres.

By N. Navel  
22/1/48.

Refugee Dept.

JB Jan 24

Refugees Dept are only interested in those items which are covered by Article 8 of the Final Act of the Paris Reparations Conference, e.g. non-monetary gold in Germany and German assets and "heirless funds" in neutral countries.

Arthur H. Henson 28/1

JB Jan 29

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SAVING

From the High Commissioner for Palestine.

To the Secretary of State for the Colonies.

Date..... 15th December, 1947.

No..... 1311 Saving. Priority. Secret.



Repeated UKDEL New York No.851 Saving.

Your telegram No.3022. Custodian's assets in Palestine.

2. I have not yet received third report of Committee of Experts or final rules for accounting for German external assets. The following questions arise in respect of latter as set out in your paragraph 7.

3. Assets belonging to an individual who had German nationality on January the 14th 1946 and who on that date was physically inside Germany fall into category "A", while assets which were owned directly or indirectly by an individual of German nationality who died before January the 14th 1946, fall into category "B".

4. Does category "A" include assets of persons who died before 14th January, 1946, which have devolved on German nationals residing in Germany on 14th January, 1946? If this is correct, then, broadly speaking, and on the assumption that Jews who died in Germany between 1939 and the 14th January 1946 left no heirs in Germany, category "A" properties in Palestine will consist mainly of German aryan enemy assets, while category "B" would consist of:

- (i) enemy subject assets;
- (ii) communal bodies' assets, provided they are vested as proposed in my saving 1310;
- (iii) assets of German residents of non-German nationality e.g. Palestine Arabs who went to Germany before the war;
- (iv) assets of Jews who died in Germany before 14th January 1946 and left heirs abroad or of non-German nationality;
- (v) assets of German aryan enemies who died in Germany before 14th January 1946 and left as heirs enemy subjects.

5. In order to establish nationality of former owners and position on 14th January 1946, investigations are necessary which will take some time. It is proposed therefore to adopt for purposes of above liquidation the/broad distinction unless in particular cases detailed information can speedily be obtained.

6. The peculiar nature of German land-holding in Palestine (vide enclosure to my saving telegram No.61) render it difficult to comply with instructions not to make further vesting orders and release "B" assets on the one hand and on the other hand to realise "A" assets. Large amount of property is held in ~~xx~~ undivided shares by enemies, enemy subjects deported to Australia and enemy subjects interned in Palestine and sale of undivided shares will be more difficult and less advantageous than sale of a whole area. Moreover sale of properties registered in the name of a communal body but held on behalf of individual enemy or enemy subject might present legal difficulties unless property of communal bodies is also vested; similar difficulties may be anticipated where (frequently) registration has remained in the name of deceased.



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7. Your paragraph 2(c).

By "depreciate value of assets" do you mean to write down the actual monetary value of the individual assets or to reduce their amount by:-

- (a) not vesting; or
- (b) releasing; or
- (c) announcing intention to release ?

8. I presume that you contemplate both valuing assets at a conservative figure and releasing as far as practicable "B" assets.

9. Your paragraph 2(c)(i).

I can as requested refrain from vesting further assets but as explained in my savinggram No.1310 and above, this may render liquidation more difficult. A price of LP 2,250,000 has been agreed with the Tel Aviv Municipality for Saron lands expropriated and to be expropriated on assumption that communal body assets would be vested. If not, transaction could presumably be only carried through by Custodian selling enemy lands (less than 1/4 in area) provided the Municipality is able to conclude new agreements with enemy subjects if their property is released. In this connexion it is felt that the Tel Aviv Municipality might reconsider their offer if they thought the Jewish State might be able to secure these lands.

10. Moreover, peculiar construction of communal bodies as explained in my savinggram No.1310 might render these bodies virtually defunct if enemy subjects are to leave Palestine. Consequently their property should either be vested or its free disposal be permitted.

11. Your paragraph 2(c)(ii).

If the classification of A and B assets in paragraph 4 above is correct, have I your authority to release or classes (i) to (v) of "B" assets in appropriate cases? Investigations to establish these classes will give provisional results within the time limit although in many cases actual release will not yet be possible, since proof of title by way of letters of administration or order of succession will take some more time.

12. Your paragraph 4(a).

Custodian is selling movable property (furniture vested in him), both "A" and "B" and will continue to do so. It is believed that the Custodian will also be able to sell some of the land and houses vested in him, especially in towns, at good prices. However, it will be physically impossible to complete the sale of all such lands or even "A" assets within a few months.

13. On the other hand liquidation of "A" assets where they are involved with "B" assets might be facilitated by immediately releasing enemy subject assets and encouraging their sale by owners. Such sales have not been permitted for the last three years but eagerness of

Date.....

No.....Saving.

- 3 -

5

German subjects to sell is evident. Is there any objection to sales by private treaty provided price is considered defensible?

14. Your paragraph 4(b).

The Custodian can, if so wished, release assets of German subjects in Australia. But this will for reasons set out in paragraph 6 above render more difficult the sale of the remainder. While it would seem from paragraph 1 of your secret memorandum No. 12.9.43 that these assets will eventually not be required for reparations, immediate release might endanger the alternative object of their vesting, viz. to induce the Australian Government to accept the 460 locally interned Germans. In this connection see my saving telegram No. 1240.

15. Your paragraph 4(c).

All liquid German external assets in Palestine can be transferred to the U.K. to the credit of the Palestine Custodian. This might, however, lead to difficulties when the Palestine Custodian disappears, and you may accordingly wish the money to be transferred to your credit or the credit of the U.K. Custodian.

There is at the moment no Palestine legislation corresponding to regulation 4(3)(a) of the U.K. Defence (Trading with the Enemy) Regulations, 1940 and, although I should have thought that the powers conferred by section 7(1)(d) of the U.K. Act, which are repeated in section 9(1)(d) of the Palestine Ordinance, should have been sufficient in the present instance to enable the High Commissioner to transfer the money to the U.K. to your credit or the Custodian's credit, since the aim of so doing is to preserve it in contemplation of arrangements to be made at the conclusion of peace, the enactment of regulation 4(3)(a) seems to imply that the contrary view may have been taken in the U.K. Should you, therefore, desire the money to be sent to the U.K. to the credit of anyone other than the Palestine Custodian, it may be necessary for me to enact legislation to that end.

16. It has occurred to me that land at present vested in the Custodian if not released might, in order to protect the title on the disappearance of the Palestine Custodian, be vested in yourself or the U.K. Custodian, but any such legislation would be widely misrepresented here and might be challenged on the ground of purporting to be extra-territorial. I do not consider this challenge a valid one, but in order to avoid it and to minimise political reaction here would you consider including a provision for such vesting in any U.K. legislation that may be passed to deal with the abrogation of the Mandate.

17. Your paragraph 4(d).

Presumably these 460 German internees will in any event be released on our departure. If it is decided to release their property they will presumably be able to take care of themselves. If not, they will be derelict and I think they should be provided from Custodian funds, if they want it, with a passage to Germany or Australia, if the latter will take them.

18. I will send you lists of category "A" and "B" property so far as at present known when the necessary information has been collated.

/..



## ROWING

From the High Commissioner for Palestine.

To the Secretary of State for the Colonies.

Data:

## No.....Saving



13. Monetary claims against Germany registered with the  
Federal Reserve Bank of New York total \$1,000,000,000 out of which nearly \$1,000,000,000 are "German  
securities". Analysis of this item with follow-up.

20 Canadian problem in Palestine are at any time  
21 work on their treatment in the light of the  
22 in four paragraphs present and future  
23 and not only as a result of the  
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**Copies sent to:-**

## Treasury

11-3

## Trading with the Enemy

Department

**Commonwealth Relations  
Office**

**Foreign Office**

- Mr. Wolfe
- Mr. Russell-Edwards
- Mr. H.R. Apperley
- Mr. D. Carter
- Mr. S.A. Goulbourn
- Mr. E.A.B. Burrows



<div style="font-size: 2em; font-weight: bold;">E</div>	<div style="font-size: 1.5em; font-weight: bold;">E 104</div>	
<div style="font-size: 1.5em; font-weight: bold;">PALESTINE</div>	<div style="font-size: 1.2em; font-weight: bold;">2 JAN</div>	
<div style="font-size: 1.5em; font-weight: bold;">1948</div>		

<p>Registry Number <b>E 104/38/31</b></p> <p>FROM <b>80.</b></p> <p>No. <b>bond</b></p> <p>Dated</p> <p>Received in Registry <b>2 Jan.</b></p>	<p><i>German Assets in Palestine</i></p> <p><i>copy of Pilsner tel 1310 Saving of 15 Dec</i></p> <p><i>discusses question of future of German</i></p> <p><i>Assets in Palestine.</i></p>
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<p><b>Last Paper.</b></p> <p><b>38</b></p> <p><b>References.</b></p> <p><b>(Print.)</b></p> <p><b>(How disposed of.)</b></p>	<p style="text-align: right;">(Minutes.)</p> <p><b>E.R. Dept ✓</b></p> <p><b>German. Gen. &amp; C. Dept.</b></p> <p><b>Ec. <del>Dept.</del> 27/1/48</b></p> <p style="text-align: right;"><b>JB Jan 10</b></p> <p>This has presumably been agreed to. It would save complications if we left the property alone. However, it is an involved technical subject, &amp; without a firm background knowledge we cannot regfully comment.</p> <p style="text-align: right;"><b>Finneyan- 13/1.</b></p> <p>The problem is one of the technical experts &amp; the Treasury and tried to solve</p> <p style="text-align: right;"><b>Hand 22/1/48.</b></p> <p style="text-align: right;"><b>JB Jan 24</b></p> <p><b>J.P.P. - 80 tel of Pilsner 377 10/1</b></p> <p style="text-align: right;"><b>JB Feb 3</b></p> <p><b>J.P.P. Pilsner tel 311 7/2</b></p> <p style="text-align: right;"><b>JB Feb 10</b></p>
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<p><b>(Action completed.)</b></p> <p><b>18/2/48</b></p>	<p><b>(Index)</b></p> <p><b>18/2/48</b></p>
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<p><b>Next Paper.</b></p> <p><b>340</b></p>	<p><b>29470 F.O.P.</b></p>
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Ref No. 18250/68/47  
With Comps: Mr. Anderson  
5/31/47

Mr. B.A.B. Burrows  
8

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E 104

SE/369/47-Vol. (II)

SAVING

From the High Commissioner for Palestine.  
To the Secretary of State for the Colonies.

Date 15th December, 1947.

No. 1310 SAVING. PRIORITY SECRET

Repeated to UNDEL New York No. 852.

German Assets in Palestine.

My saving priority secret telegram No. 259 of 25th October informed you of the proposal to vest all German enemy subject property in Palestine including that of German ex-internees in Australia. This has now been achieved by a comprehensive Vesting Order No. 327 published in Supplement No. 2 of Palestine Gazette No. 1627 of 6/11/47 a copy of which is attached. This Vesting Order vests the properties of individuals but does not touch the property of the following communal bodies:-

- (1) "Zentralkasse der Tempelgesellschaft Ltd."
- (2) "Deutsche Tempelgemeinde Haifa".
- (3) "Siedlungsgenossenschaft der Deutschen Evangelischen Gemeinde in Haifa (Cooperative) Ltd."
- (4) "Siedlungsgenossenschaft Sarona-Jaffa" "Siedlungsgenossenschaft der Tempelgemeinde Sarona/Jaffa (The Cooperative Settlement of Temple Community of Sarona/Jaffa) Ltd."
- (5) "Deutsche Bürgergemeinde Haifa".
- (6) "Deutsche Evangelische Gemeinde Haifa".
- (7) "Deutsche Evangelische Gemeinde Jerusalem".
- (8) "Kopro" Cooperative Society Waldheim.
- (9) "Wilhelms Dairy".
- (10) "Deutsche Apfelsinenbaugesellschaft Wilhelms".

These communal bodies are all registered locally and are not "enemies". In paragraph 8 of your circular despatch No. 2 of 18th January, 1940 it was pointed out that an incorporated body is a legal entity apart from the individuals who are its members, and that it could have no nationality other than that of the country in which it is incorporated. You could not agree to such bodies being brought within the definition of enemy subjects by an enlargement of the provisions of Section 5(1) of the United Kingdom Act, which deals not with enemy character but with enemy nationality. But it was stated at the same time that you would see no objection to certain companies being declared enemies under the Section of a territory's legislation corresponding to section 2(2) of the United Kingdom Act.

2. Many German lands are registered in the Land Registry not in the names of those individual enemy subjects, whose names appear in the Vesting Order No. 327 already mentioned, but in the names of the aforementioned communal bodies. I am advised therefore that

/the

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the Vesting Order would probably not be effective to confer title on the Custodian of Enemy Property to such land as is registered in the name of the communal bodies. (Although such land was generally occupied and developed by the individuals mentioned in the Vesting Order. Of course unoccupied land would not be affected by the Vesting Order seeing that the individuals specified in this Order had no connection with the land).

3. As you will have seen from my Priority Secret Saving telegram under reference there were two main purposes for the comprehensive Vesting Order referred to, viz:-

- (a) to preserve all enemy subject property till the question of liability for Reparations had been settled; and
- (b) to form the basis of negotiations with the Australian authorities to induce them to accept as permanent residents all German enemy subjects still interned in Palestine, who wish to take up residence in Australia rather than be repatriated to Germany.

I am advised that the second of these objectives would not be fully secured by the present Vesting Order since it would be open to the communal bodies to act in their corporate capacity again, and thereby arrange for the disposal of the properties registered in their names to ex-internees in Australia, thus permitting the latter to make the process of naturalization a selective one, based mainly on economic considerations.

4. I am advised moreover that such disposals by these communal bodies might enable them to frustrate any intention by His Majesty's Government to secure the assets in question for the Reparations settlement; but it would now appear that such property will probably not be liable for Reparations since it would not seem to fall within Category A mentioned in your telegram No. 3022.

Furthermore I would point out that negotiations on the proposed Tel Aviv expropriations in Savana which formed the subject of your telegram No. 39 may be held up if the Custodian of Enemy Property is unable to obtain title to properties registered in the names of these communal bodies since these properties are closely interlocked with "enemy" and individual "enemy subject" properties at present vested in him. This aspect is important in relation to the question of liquidation of real assets raised in your telegram No. 3022 which emphasized in paragraph 6 of the unfortunate consequences which must result from His Majesty's Government's remaining liable in respect of such assets after they had passed from their control. It should be realized that it may not be possible to sell all the Custodian of Enemy Property's assets (a substantial part of which are the subject of the negotiations just mentioned) in the time available before the termination of the Mandate; and if the negotiations with the Tel Aviv Municipality fail it may result in a further substantial quantity of Category A assets remaining unrealized or unliquidated.

5. In view of the foregoing considerations I feel obliged to revert to the suggestion, originally put forward in my Saving telegram No. 35 of the 20th of February, that these communal bodies be declared "enemies" under Section 4(2) of the Trading with the Enemy Ordinance. Such a declaration requires your prior approval; and my request for such approval is made after taking into the most careful consideration the various considerations set out at length in the letter from Mr. Harris of the United Kingdom Trading with the Enemy Department No. T/Gen. 2383 of the 7th March, and your Saving Priority Secret telegram No. 78. I should not have considered

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making such a request for the revival of statutory declarations of "enemies" had I not been convinced that there is literally no other solution to this intricate problem of obtaining control over the very valuable properties registered in the names of these German communal bodies. As suggested in paragraph 4 of Mr. Haseis' letter this declaration would be revoked immediately after the properties of the bodies had been vested.

6. Finally I ought to explain that the first communal body on the list in paragraph 1 viz: "Zentralkasse der Tempelgesellschaft Ltd." is constructed as the financial instrument of the "Templar Society", which was founded as a quasi-religious organisation. At first sight, therefore, the property of this organisation might appear to fall within the class of "German ecclesiastical property" to which your saving telegram No. 704 of 8th August, 1946 refers. This would mean the exclusion of its property from the Reparations Settlement, and its treatment on entirely different lines. I am satisfied, however, that the membership of this Society (which is very extensive), follows purely secular activities; and that, no matter what the historical origins of the body may have been, it is now overwhelmingly secular in its functions. In this connection please see Sir John Shaw's secret despatch No. C.S.637/6 of the 7th July, 1945, paragraphs 3 and 4. (I may say that before I approved Vesting Order No. 327. I was careful to see that no names of "religious persons" were included. The 200 Catholic priests and nuns referred to in paragraph 3 of Sir John Shaw's despatch already quoted were not included in the Vesting Order).

7. Having regard only to the circumstances of this particular problem I would recommend that you should give your approval at the earliest possible opportunity by telegram to my declaring the communal bodies specified in paragraph 1 above as "enemies" under Section 4(2) of the Trading with the Enemy Ordinance. This would enable me to vest their property, and thus to make the scheme described in my priority secret saving telegram No. 259 of the 25th October fully effective, besides facilitating the liquidation of certain Enemy assets, falling within Category A defined by your telegram No. 3022, in cases (which are fairly numerous) where ownership consists in undivided shares involving both an "Enemy" and an "Enemy subject", or "Communal Body", interest.

8. But in view of the wider questions raised in your telegram No. 3022, which makes it clear that one of the main considerations to be kept in mind in present circumstances, is the need to reduce or eliminate altogether the quantum of vested assets falling within Category C this recommendation should be read together with my immediately following SAVING telegram No. 1314 Secret of today's date. In that SAVING telegram I have drawn your attention to a certain conflict between what seem to be the two main desiderata in dealing with assets held by the Custodian of Enemy Property viz:

- (a) the desirability of liquidating all assets in the Custodian's hands before the British withdrawal;
- (b) the need to reduce liabilities in respect of Category B assets.

Objective (a) would in the long run be promoted by the present recommendation whereas objective (b) would in the short run be defeated by it. It will be for H.M.G. to decide which of these two considerations should have most weight bearing in mind the limited time available for the liquidation of immovable assets and the difficulties in the way of disposing of so large a quantity of Enemy property by sale in a short time.

The view of this Government is that His Majesty's Governments interests would best be served at this stage by vesting the property of communal bodies in order to facilitate liquidation of "enemy" assets. This might be followed at a later stage by divesting in appropriate cases.

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**OUTWARD TELEGRAM**

**FROM THE SECRETARY OF STATE FOR THE COLONIES**

**INDEXED**

104 / 18 / 2

18250/68/48

Cypher (O.T.P.)

2 FEB 1948

**TO PALESTINE** (Gen. Sir A. Cunningham)

Sent 30th January, 1948, 07.00 hrs.

**IMPORTANT**

No. 377 Secret.

Addressed High Commissioner, Palestine.  
Repeated UKDEL, New York, BRILL No. 22 for  
Trafford Smith.

Your telegram No. 1310 Saving.

German Assets in Palestine.

1. Discussion with Australian representatives today indicates that they will shortly put up official request for

(a) transfer to Australia of remaining German internees in Palestine.

(b) transfer to Australia of assets of all internees, both those in Australia and those still in Palestine.

(c) transfer to Australia of assets of members of Templar Society now in Germany (in so far as His Majesty's Government is now accountable to I.A.R.A. for such assets) with a view to permitting such members to enter Australia.

2. In return Australians were informed

(a) that it was desirable to delay completion of naturalization proceedings of Australian internees pending specification and declassification.

(b) that policy of His Majesty's Government was virtually certain to be to liquidate internees' holdings and allow transfer to Australia for all Australian residents.

3. Australians are concerned at possibility that liquidation may result in considerable losses and hinted at possibility of official or unofficial Australian representative of internees proceeding to Palestine to protect internees' interests.

4. Advantage of such a step might be that internees would thereby be satisfied that their interests were being protected especially if liquidation could not be completed by May 15th. In any event you will no doubt wish to know of possibility that proposal for visit may be made.

5. Australians were advised that liquidation would almost certainly have to start immediately but that it might be possible to stay liquidation of particular assets if prices seemed altogether unfair pending arrival of representative. Danger of this would of course be that liquidation at a later date would be impossible. Australians agreed therefore that

/liquidation

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SENT TO DEPT.

6. Please inform Abbott if still in Palestine.

Copies sent to:-

- Mr. Rickett,

- Mr. Wolf.

- Mr. Trevelyan,

- Mr. Beith.

- Mr. Gouldborn.

to Sir H. Gregory.

Mr. D. Carter.

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# INWARD TELEGRAM

TO THE SECRETARY OF STATE FOR THE COLONIES

Cypher(O.T.F.)

INDEXED

FROM PALMSTINE (Gen. Sir A. Cunningham)

104 / 78 / 21

D. 7th February, 1948.

R. 7th " 14.20 hrs.

IMMEDIATE

No. 311 Secret

Addressed to S. of S. (Gen. Sir A. Cunningham)  
Repeated to UKDEL New York BRIEF No. 332 (Washington please pass).

Your telegram No. 337 repeated to UKDEL BRIEF No. 22.

German internees and assets in Palestine.

(a) The first and most important issue is to obtain confirmation that Australia will accept all remaining German internees.

(b) As soon as this is accepted, we would agree to transfer to Australia assets of all internees whether in Palestine or Australia.

(c) The question of transferring assets of members of communal bodies now in Germany would primarily be a matter of discussion with H.M. Government who would (corrupt group ? if required) be accountable for such assets.

2. As soon as (a) above is accepted, we would welcome arrival of official (repeat official) representative at earliest opportunity. We should wish him to be authorised:-

(i) to co-operate in liquidation of German assets both in the interests of H.M. Government and of Australia.

(ii) to accept full responsibility for organisation of German internees on release from internment.

(iii) to arrange for transport, entry visas and other administrative details connected with transfer of internees to Australia.

3. There appears to be some possibility of conflict of interests between H.M. Government and Australia. It has been agreed in your telegram No. 359 that further liquidation should be undertaken immediately. H.M. Government is mainly concerned to secure a defensible price for assets accountable to I.A.R.A. whereas Australian administration wish to secure highest market price for property of enemy subjects and communal bodies. It would be desirable to explain to Australia:-

(a) that the broad problems facing H.M. Government and the Palestine Custodian in regard to their responsibilities are so complex and so important that abnormal measures may have to be taken to resolve them.

(b) that it would be in the best interests of Australia and the internees themselves to secure the maximum liquidation of immovable property before the British withdrawal, having regard to the likelihood of Jewish expropriation thereafter and the uncertainty of securing a fair price. It might be added that

in/

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SENT TO DEP.

(c) that final responsibility must remain with the Palestine Government, both in regard to the extent of liquidation and price at which it is effected. Enemy interests are often so inextricably mixed with enemy subjects that the only practicable measure in the time available is to sell the whole block and sort out shares later. Where in urban areas enemy subjects own properties in which there is no enemy interest we would see no objection to divesting, leaving the individuals concerned to realize what they could.

4. Would be grateful if Australians could be pressed first to commit themselves to accepting the remaining Germans and secondly to sending their representative here by air without delay.

Copies sent to: [redacted] at Bethesda VEE-08 unreported error

Foreign Office      Communications Dept.

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E 380

12

1948

PALESTINE

9 JAN

Registry  
Number

E 380/38/31

FROM

D. Melvin Stark

No.

60.

Dated

6 March

Received  
in Registry

18281/47

5 Jan

9

Transfer of Palestine Assets.Copy of letter from D. Melvin Stark to J. P. Abbott  
Reg. of 5 Jan enclosing note of meeting held  
at the B.O. on Jan 2. and draft telegram to  
the H/C re the transfer of assets from  
Palestine to the U.K.

Last Paper.

104

References.

(Print.)

(How disposed of.)

(Minutes.)

E.R. Dept. H.P. 21/11

Ec. Warfare Dept - Mr Goodrich

German Gen. Ec. Dept. 11/11

JD Jan 10

J. P. Abbott, Reg. of 85/27/1 to D. Melvin Stark 10/1

JD Jan 28

(Action  
completed.)

JCM 27/1

(Index)

31/1/48

Next Paper.

4444

26513 F.O.P.

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Enter E  
13

Colonial Office,  
Dover House,  
Whitehall, S.W.1.

**9 JAN**

I enclose a short note of the meeting held at the Colonial Office on 2nd January as well as draft telegrams to Palestine covering the various points dealt with.

Yours sincerely,

**T. E. ABBOTT, ESQ.**

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SECRET

14

Note of a Meeting held at The Church House  
on 2nd January, 1948.

Mr Gutch, Colonial Office, Chairman

Mr W. Russell-Edmunds  
Mr D. Carter  
Mr D. Kelvin Stark  
Mr J.E. Abbott  
Mr Gibson

Treasury  
T.W.E.D.  
Colonial Office  
Treasury  
Attorney General,  
Palestine

Sir Desmond Morton (Treasury) and Mr Trafford Smith, Colonial Office, and Mr J.D. Higham, Colonial Office, were also present for part of the meeting.

1. The meeting considered the transfer of assets from Palestine to the United Kingdom. In the absence of any regulation equivalent to that introduced in the United Kingdom under S.R. & O. No. 501 of 1945 it was agreed that it would be desirable for Palestine to introduce a regulation on the same lines enabling the Custodian to transfer funds to other United Kingdom and Dominion Custodians. It was realised that this was open to misconstruction but it was considered essential that the enabling powers should be passed. It was agreed that it would be inadvisable to enact the regulation until after the Lake Success meeting and that meanwhile Palestine should be advised to prepare the necessary draft but not to introduce it until so advised.

2. The meeting considered an approach that had been made by representatives of the Jewish Agency to the Colonial Office in a meeting with Mr Gutch in which the Agency had claimed that all property held in Palestine by German Jews in anticipation of immigration which had subsequently become of uncertain ownership owing to the disappearance of the holders in concentration camps should be handed over to the Successor State. Mr Carter indicated that such property in the absence of heirs would not be claimed on behalf of I.A.R.A. and Mr Abbott indicated

that/

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that in that event the Treasury would not claim it for this country. It was accordingly agreed that in the absence of heirs such property would be deemed to be the property of the successor states, whether Arab or Jewish, in which it was located. It was agreed that it would be premature to give any promise to this effect to the Jewish Agency as this concession might become a valuable bargaining counter at a later date.

3. While it had already been agreed that Category A property had to be accounted for and Category B property should be released the meeting considered what action should be taken in respect of property held by corporations in Palestine of which membership was partly Category A and partly Category B. It was generally agreed that it was undesirable to specify Palestinian corporate property as enemy if this could be avoided as although power to specify existed it might be considered an abuse of this power (introduced for the purpose of specifying neutral firms who were trading with the enemy in the war) to use it for the present purpose. The meeting therefore agreed that an attempt should be made to arrange for amicable settlement with the Category B elements without resort to such powers. If this failed however it would be necessary to specify the property - vest it, liquidate it, and then immediately annul the specification.

4. The meeting considered the case of the internees. It was pointed out that His Majesty's Government would become accountable for their assets if they were not permitted to reside in U.K. territory while it was probable that they would be massacred if they were left in Palestine after the transfer. It was therefore agreed that steps should be taken to continue to urge upon Australia the desirability of taking in the rest of these internees in addition to those already there and that failing this the Home Office should be asked to facilitate their entry/

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entry into this country pending their final settlement outside Germany.

5. Consideration was given to the question of briefing the United Kingdom delegates at Lake Success. It was realized that the Jewish Agency would be fully briefed on all technical points and the meeting considered that it would be highly desirable for an expert in I.A.R.A. and Trading with the Enemy matters to be available at short notice should matters of detail come up for discussion. It was considered that it would be an advantage if this same expert had already been in Palestine in connection with the Palestine Government's request for an expert which the meeting then proceeded to discuss.

6. In connection with this request of the Palestine Government it was explained that the present Custodian of Enemy Property in Palestine had not been long in his post, was not a lawyer and could not under present conditions in Palestine obtain adequate legal advice from outside his own department. The result was that he was unable to take responsibility for the many decisions that would have to be taken in implementing the policy of His Majesty's Government. His assistant on the other hand was a Jewish lawyer who had a considerable local reputation in Trading with the Enemy matters and might be considered to be favourable to the Jewish points of view. Much of the staff was also Jewish. The result was that even in the past Palestine had shown itself unable to implement policy in connection with Trading with the Enemy work, for example many months after the signing of the French Property Agreement Palestine still refused to comply with its requirements without various concessions such as payments by the French of fees and provision by the French of letters of indemnity. In short in every aspect of Custodian work Palestine had already shown a tendency to raise a mass of meticulous questions and an inability to carry through policy. To obviate this it was in the view of the Palestine Government and the Colonial Office urgently necessary that someone able to speak/

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17

17  
speak with authority on Trading with the Enemy and I.A.R.A. matters and to give ad hoc decisions on behalf of His Majesty's Government should proceed to Palestine in order to over-ride the mass of technical difficulties that would be raised in connection with the implementation of the agreed policy. The meeting agreed that the Treasury should be approached officially in this connection and in connection with the visit to Lake Success. This had now been done.

7. It was pointed out that among questions with which such an expert would have to deal would be -

(1) those connected with the release of Category B and the liquidation of Category A assets and the decisions in connection with mixed Category A and B assets.

(2) those connected with Allied Property agreements.

(3) those connected with the Italian and satellite peace treaties. In this connection it was pointed out that the extension of the Financial Agreement with Italy to Palestine had been held back in the hope that it would prove possible for this to be dealt with after the transfer.

8. The Colonial Office was asked if it could provide details as to the manner in which the Palestine Custodian's liquid assets were now held and as to the difference in legislation between Palestine and the United Kingdom. This is being done but will require reference to Palestine.

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18

1. Grateful for information as to manner in which Custodian's funds are now held (e.g. banked, invested, merged with Treasury funds) and how long notice would be required for transfer to this country.

2. Grateful also for brief indication of differences between Palestinian and U.K. legislation.
3. Grateful also for any special comments as to Palestine's position which you would wish to have brought to notice of any expert who visited Palestine.

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19

Anderson 1/1

K. Stark

CYPHER  
TELEGRAM

NO. SECRET

HIGH COMMISSIONER,  
PALESTINE.

(69)

Your telegram No. 226 Saving of  
16th September 1947.

Liquidation of assets.

(86)

1. I regret T.W.E.D. can offer no  
assistance. United Kingdom holdings are  
mainly those subject to Inter Custodial  
conflict which is being discussed by  
I.A.R.A. so that no machinery has been  
devised.

2. No objection to liquidation through  
established channels (e.g. brokers, estate  
agents etc.) with payment of normal  
commission, fees etc. either exclusively  
or pari passu with liquidation through  
Custodian's department.

3. Reasonable lower limits of price  
on the basis of fair market values then  
prevailing should be imposed, and sales  
should be adequately advertised.

4. In cases of doubt as to market value  
the normal principles of valuation as  
employed for estate duty should be  
used, with some allowance in view of the  
necessity for quick sale before conditions  
deteriorate.

Copy to

Mr. D. Carter T.W.E.D.  
Mr. J. E. Abbott Treas.  
Mr. E. A. E. Burrows F.O.

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5. Conditions of sale should include provision that purchaser should not resell in such manner that property does not revert to enemy ownership or control.
6. The above refers to category A assets.
7. Category B assets should normally be returned to owners in specie.
8. In the case of mixed Category A and B assets public advertisement of intention to liquidate should be made and a few days' interval/ <sup>allowed</sup> to enable agents to telegraph to owners abroad and where applicable procedure should then be on the following lines.
  - (a) if possible B owners should purchase A element
  - (b) failing this assets should be physically divided with consent of B interests and A elements should then be vested and liquidated.
  - (c) failing this assent of B interests to sale of whole property should be secured and proceeds should then be apportioned.
  - (d) failing this the entire property would be vested without consent of B interests to prevent its return to German ownership and control and proceeds of sale would then be apportioned.
9. Preceding paragraph is not intended to be rigidly followed but to indicate general principle that Category A assets must not revert to enemy control but subject to this Category B interests should receive due consideration.
10. It may assist in this policy if persons expected to come under Category B are only provisionally placed in that category at first and confirmation in that category is delayed until liquidation is effected.

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16281/47

20

**TELEGRAM**

**HIGH COMMISSIONER,  
PALESTINE.**

Your telegram No. 1311 saving.

Custodian's Assets in Palestine.

1. Final rules for accounting are being printed and will be forwarded when available.
2. Your paragraph 4 category A assets include assets of persons dying before 14th January 1946 which have devolved on German nationals residing in Germany on 14th January 1946.
3. Your paragraph 4 category B assets will not (repeat not) normally consist of classes mentioned in paragraph 4 of your telegram under reference unless such assets are to be permanently retained. Policy of His Majesty's Government is to release such assets unless there are special reasons for retention.
4. It is in general desirable to refrain from specifying Palestinian corporate property as enemy if it can be avoided. In my immediately succeeding telegram I have suggested that vesting should only be resorted to if amicable arrangement is impossible.
5. Your paragraph 7. Depreciation of value of assets was intended to refer to revaluation

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revaluation of assets on a realistic basis of their market value under present and expected conditions of sale.

6. Your paragraph 10. Free disposal of assets of persons whom it is not proposed forcibly to repatriate to Germany should in general be prepared for. It is not proposed to repatriate to Germany either Australian ex-internees or other internees. If Australia cannot accept the latter efforts will be made to arrange for their admission to this country.

7. Your paragraph 11 I agree that steps should be taken preparatory to release of assets described in your paragraph 4 (1) to (v).

8. Your paragraph 12.

I have suggested the use of outside agencies to assist sales in my immediately succeeding telegram.

9. Your paragraph 13.

There is no objection to sale by private treaty if price is defensible.

10. Your paragraph 14.

The principle object should be to ensure that assets for which His Majesty's Government is accountable should be liquidated. You will no doubt take whatever steps are best suited to this end.

11. Your paragraph 15.

Steps should be taken to draft legislation on the lines of S. R. & O. No. 501 of 1945 in readiness for enactment. Pending further indication however that there are no objections to enactment I suggest that enactment be postponed.

12. Your paragraph 17. Please see paragraph 6 above.

13. Your paragraph 20. Visit of senior official to Palestine and possibly to Lake Success is being urgently discussed with departments concerned.

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With the compliments of Mr. Abbott.

INDEXED

10281/47

380 / 78 71

G.F. 85/27/1

10th January, 1948.

Dear Stark,

Referring to your letter to me of the 5th January on the drafts you enclosed of telegrams to Palestine, I confirm that the following are the telephone observations and proposed amendments to those drafts:-

(1) The short telegram on Custodian's assets in Palestine:  
I suggest that these should read as follows:-

Custodian's German Assets in Palestine.

(i) Grateful immediate information as to manner in which Custodian's funds are now held (e.g. banked, invested, merged with Treasury funds) . Total of these funds in this liquid or readily liquidated form. Information is also desired as to the total of any bank-balances held to the order of the Custodian.

(ii) Grateful also for brief indication of any very important differences known to you to exist between Palestinian and U.K. legislation.

(iii) You should telegraph immediately any further special comments as to Palestinian position which you wish to bring to the notice of the expert who is to visit Palestine on 20th January - see telegram paragraph.

(2) Telegram relating to telegram 226 saving. - The amendments suggested by Carter to paragraphs 8 and 9 should be modified as follows:-

Quit all after the first sentence and substitute:-

D. Kelvin Stark, Esq.,  
Colonial Office,

/No

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No action should be taken pending arrival of Treasury representative, but meanwhile you should consider:-

- (i) whether public advertisement of intention to liquidate could be given;
- (ii) whether amicable arrangements, e.g. sale by commercial bodies or individual owners themselves is practicable within a short time;
- (iii) what specification and vested orders are needed to effect a sale and apportion proceeds;
- (iv) whether in any case it is going to be at all possible between now and 15th May to sell any of the property by method (ii) or (iii).

(3) The telegram referring to 1311 saving.

I agree with all of Carter's comments and have agreed with you that the following additional comments should be made:-

Paragraph 10:- This should be deleted and the following substituted:-

"This will be discussed by expert (see paragraph 15) on his arrival."

Paragraph 13:- This should read:-

"Your paragraph 20. Mr. J.E. Abbot of H.M. Treasury who is responsible for Treasury work on German external assets will leave U.K. for Palestine on Monday, 19th January, arriving Lydda on 20th January, 13.40 hours. Please make arrangements

/for

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for meeting and accommodation. He will be required back in London by 29th January and may have to return sooner if events at Lake Success require his attention there on this question."

If this telegram has not already issued, I think it would be as well to be more positive about the suspension of issue of any legislation on the lines of S.R. and O. No. 541 of 45, referred to in paragraph 11 of your draft. We do not want them to do this at all until I arrive on the scene. I suggest, therefore, that the second sentence of the paragraph reads:-

"No action should be taken to issue such legislation pending arrival of Mr. Abbott, see paragraph 13."

I have just learned that it will be possible for me to be included in the party travelling by the charter plane leaving London air-port on the 20th and I have, therefore, arranged to cancel my passage for the 19th and travel by the charter plane. If telegram in reply to 1511 saving has not issued, will you please amend paragraph 13 accordingly. I gather that by this flight I arrive at Lydda, 4 o'clock on the 21st.

I have copied this to:-

Dr. Carter, Esq., Trading with the Enemy Department,  
7, Crossley Square, E.C.3. S. Coulburn, Esq., Commonwealth  
Relations Office. H. Trevelyan, Esq., O.B.E., Economics  
Relations Department, Foreign Office. J.E.S. Beith, Esq.,  
Eastern Department, Foreign Office.

Yours sincerely,

J. E. ABBOTT

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<div style="font-size: 0.8em;">Registry Number</div> <div style="font-size: 1.2em; font-weight: bold;">E 811/38/31</div> <div style="font-size: 0.8em;">FROM</div> <div style="font-size: 1.2em; font-weight: bold;">I. E. Abbott</div> <div style="font-size: 0.8em;">No.</div> <div style="font-size: 1.2em; font-weight: bold;">Treasury</div> <div style="font-size: 0.8em;">Dated</div> <div style="font-size: 1.2em; font-weight: bold;">OF 85/27/1</div> <div style="font-size: 0.8em;">Received in Registry</div> <div style="font-size: 1.2em; font-weight: bold;">12 Jan</div> <div style="font-size: 1.2em; font-weight: bold;">7 21 -</div>	<div style="font-size: 1.2em; font-weight: bold;">German External Assets in Palestine</div> <div style="font-size: 1.2em;">Emphasises copies of revised draft of B.P. (ON) (48)15 of the Report of the Working Party on Palestine relating to German External Assets in Palestine.</div>
<div style="font-size: 0.8em; font-weight: bold;">Last Paper.</div> <div style="font-size: 1.2em; font-weight: bold;">22 692</div> <div style="font-size: 0.8em; font-weight: bold;">References.</div> <div style="font-size: 0.8em; font-weight: bold;">(Print.)</div> <div style="font-size: 0.8em; font-weight: bold;">(How disposed of.)</div> <div style="font-size: 1.2em; font-weight: bold;">Wgt. I. E. Abbott</div> <div style="font-size: 1.2em; font-weight: bold;">Treasury</div> <div style="font-size: 1.2em; font-weight: bold;">from Mr. Trevelyan</div> <div style="font-size: 1.2em; font-weight: bold;">17 Jan</div>	<div style="font-size: 0.8em; font-weight: bold;">(Minutes.)</div> <div style="font-size: 1.5em; font-weight: bold;">J B Jan 21</div>
<div style="font-size: 0.8em; font-weight: bold;">(Action completed.)</div> <div style="font-size: 1.2em; font-weight: bold;">J. C. 22/1</div> <div style="font-size: 0.8em; font-weight: bold;">(Index.)</div> <div style="font-size: 1.2em; font-weight: bold;">21/1/49</div>	<div style="font-size: 0.8em; font-weight: bold;">Next Paper.</div> <div style="font-size: 1.2em; font-weight: bold;">1413</div>

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Subsequently

Finelyal.

H. Trevelyan.

13th January, 1948.

Western Dept. (Mr. Beatty)

Letter to father  
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**NOTHING TO BE WRITTEN IN THIS MARGIN.**

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### Your Reference

Treasury Reference OF85/27/1



21



TREASURY CHAMBERS.

**GREAT GEORGE STREET.**

LONDON, S.W.1.

12th January, 1948.

**IMMEDIATE**

Dear Trevelyan,

I enclose two copies of the revised draft of B.P. (O.N.) (48)15 of the Report of the Working Party on Palestine relating to German external assets in Palestine.

This Report embodies the conclusions which were reached at our meeting on Wednesday, I think you will find. I have been able, for the most part, to clear this draft with Sir Desmond Morton who has given some valuable assistance in finally shaping it.

Since our meeting on Wednesday, I have had a meeting with Trafford Smith, Political representative of the Foreign Office who has gone to Lake Success to meet the Commission, and also Fletcher Cooke, Assistant Attorney-General for Palestine, who is accompanying him. Gutch and Kelvin Stark, Colonial Office, were also present at the discussions, as well as Russell Edmunds of the Treasury.

The point was made by both Trafford Smith and Fletcher Cooke that we can really say good-bye to any prospect that assets remaining in Palestine unliquidated after the Mandate has ended will realise anything worthwhile. They consider that such chaos will ensue for such a period of time that these assets may disappear in the maelstrom of civil disturbance. Therefore, it is their view that we should act as if there was a house in imminent danger of destruction by fire and remove the assets as quickly as possible and realise them.

**/However**

H. Trevelyan, Esq.,  
Economic Relations Department,  
Foreign Office.

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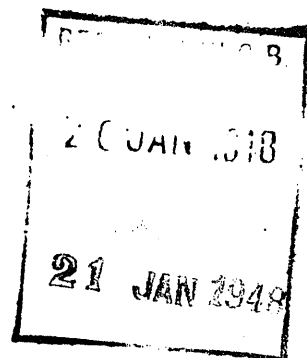
However, I do not think the matter of a fortnight is going to make much difference and by then it is hoped we shall know more clearly what to do after I have been to Palestine.

Would you, and the others to whom I am copying this, let me have your comments on the enclosure, if possible by Tuesday noon. By telephone would do.

I am copying this to John Gutch, Colonial Office, Kelvin Stark, Colonial Office, and Beith, Foreign Office. There is no time to get final comments from Sir Desmond Morton, but I am sending copies of this letter and the enclosure to him, and also for information to Douglas Carter, Trading with the Enemy Department, and Wilson, Cabinet Offices.

Yours sincerely,

*J. E. Abbott*  
J. E. ABBOTT



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H.T.

Draft.

J.E. Abbott Esq.,  
Treasury.

(from Mr.  
Trevelyan)

Eastern  
Dept.  
first.

in the final instructions  
to Sir A. Cadogan

(33854) WL14696/147 75,000 6/47 A. & E.W.Ltd. Gp.685

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OUT FILE

FOREIGN OFFICE,

S.W.1.

January 1948.

Your OF 85/27/1 dated 12th January, 1947.

In confirmation of our telephone conver-  
sation, I agree to the revised draft of the Report  
of the Working Party on Palestine relating to  
German external assets in Palestine.

You will remember that we suggested at the  
meeting that in answer to an ~~attack~~ <sup>answer</sup> that we had  
been liquidating German funds, and transferring them  
to the U.K. and thereby dispossessing the Palestine  
Jewish Community of what was rightly theirs, we  
should state that we were holding these German  
assets in trust <sup>on behalf of</sup> to the I.A.R.A. and <sup>that</sup> the question  
of their disposal <sup>does</sup> not arise until the final  
instructions of I.A.R.A. <sup>are</sup> <sup>for</sup> given regarding the  
distribution of the assets as a whole. If you  
agree, this suggestion might be included among

the answers which you suggest in your paragraph 38  
in order to <sup>rebut</sup> the anticipated accusations.

We shall look forward to having another  
meeting with you on your return from Palestine.

I am copying this to Hutch and Kelvin Stank, Carter  
Wilson.

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27

1990

**Your OF 85/87/1 dated 12th January, 1947.**

You will remember that we suggested at the meeting that in answer to an accusation that we had been liquidating German funds, transferring them to the United Kingdom and thereby dispensing the Palestine Jewish Community of what was rightly theirs, we should state that we held these assets in trust on behalf of the I.A.R.A. and that the question of their disposal does not arise until the final instructions of I.A.R.A. are given for the distribution of the assets as a whole. If you agree, this suggestion might be included in the final instructions to Sir A. Cadogan among the answers which you suggest in your paragraph 38 in order to rebut the anticipated accusations.

I am copying this to Gutch, Kelvin Stark, Carter and Wilson.

**J. E. Abbott, Esq.,  
Treasurer.**

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1948

E

E 1413 28

PALESTINE

2 FEB '48

Registry  
Number

E 1413/38/21

FROM

W O R Wolfe

No.

theory

Dated

OF 8/27/1.

Received  
in Registry

W. K. K. K. K.  
27 Jan  
2 Feb

German Assets in Palestine

Encloses two copies of a report of the draft of  
to Palestine in reply to check of 169 x 170  
then spoken to matter of trading with the  
Enemy Dept. who agrees that we should go  
ahead with liquidation and transfer of German  
Assets as soon as possible.

Last Paper.

811

References.

(Print.)

(How disposed of.)

(Minutes.)

9. P.P. Palestine 169 24/1  
- - - 170 27/1

JB Feb. 3

See within Palestine to 199 Jan 27

JB Feb. 4

9. P.P. 70 minute M. B. K. Jan 28

JB Feb. 9

(Action  
completed.)

1/2/48

(In x.)

1/2/48

Next Paper.

1884

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Minutes.

INDEXED

Putman

E 29

For Eastern Dept's convenience. You have  
the telegram under reference.

original has been given to Mr. Walker  
who is speaking to Mr. McNeill.

Finneyar.

27/1/48.

Eastern Dept.

The Com. are pushing this  
decision through urgently,  
as Mr Abbott <sup>has now</sup> asked  
for a reply by Jan. 27.

It had been foreseen  
that a decision would  
be taken after Mr  
Abbott had returned to  
London and reported.

The FO. difficulty  
about liquidating &  
transferring German  
assets in Palestine was  
mainly an E.R. Dept.  
one.

ENTRY 7/71

Beith  
Cpl. speak  
3/3/53

28.1

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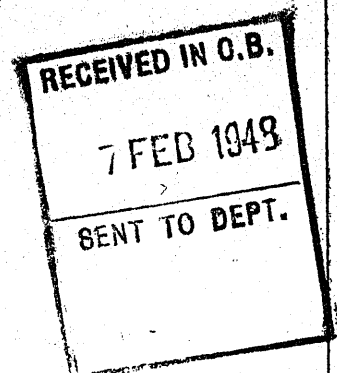


Minutes.

One. It was feared that the U.S. Jews would raise a howl and that this would add to the dangers to Marshall aid.

I have told Mr. Tordy that E. Dept. wd not object to the despatch of these fets. on the assumption that they had cleared them with the Min. of State.

J. S. Sevin  
Jan 28



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Minutes.

NI 30  
E

Palestine - German Assets.

Flag A

Please see para 31-38 (esp 38) of ON(43)563

Flag B

Para 4 of brief for Secretary of State.

Flag C

Treasury Expert's telegram from Palestine 169.

Flag D

#9. New York telegram 153 para 5.

Flag E

Draft telegram in reply, enclosed with Treasury letter of 27<sup>th</sup> Jan.

Colonial Office suggest that this is anticipating a ministerial decision, although they agree with the substance.

ONC Chairman regards this, I understand, as a matter with which ONC need not be further concerned.

Mr Abbott asks for a reply today.

I am dealing with Eastern Dept. on another copy, as they are all out.

You wish to speak to Mr. McNeill.

Fincham.

27/1/43.

Mr. Malpas. I have discussed with Sir B Hall Pakenham as Minister of State was not available.

The telegram should come. Our first duty is to the IORA powers under the Reparations agreement, & we must carry out

NOTHING TO BE WRITTEN IN THIS MARGIN.

My Name  
Please check  
the book  
this 22/2/43

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Minutes.

not an Migration as  
transfer. This can best  
be done by liquidation &  
transfer of assets. We have  
a complete answer to any  
Terrorist activities initiation.

Minister of State  
Should see  
after action.

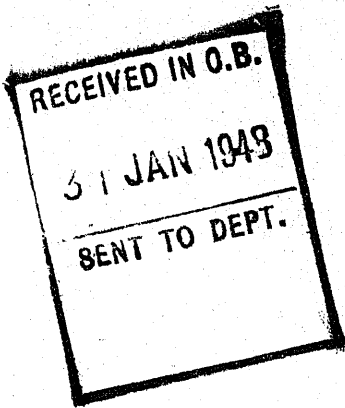
*[Signature]*  
2

Tolson informed by telephone. They  
will dispatch the telegram.

Finley  
27/1/48.

Private Secretary to  
Minister of State.

Agreed on Dec 26



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# INWARD TELEGRAM

TO THE SECRETARY OF STATE FOR THE COLONIES

INDEXED

Cypher (O.T.P.)

FROM PALESTINE (Gen. Sir A. Cunningham)

D. 24th January, 1948.

R. 24th " " 11.20 hrs.

IMMEDIATE.

No. 169 Secret.

Addressed to the S. of S.  
Repeated to Washington BRIEF No. 33 (Washington  
please pass to U.K. Delegation New York  
BRIEF No. 185).

German Enemy Assets in Palestine.

Following from Abbott.

Enquiries and consultations which have so far been  
managed in the last 48 hours already point to certain  
inescapable conclusions. It is my view that these require that  
definite decisions should be reached here and now.

2. The following is a very brief summarised view of  
the situation as to German enemy assets in Palestine and what  
in the view of all here can be done by the 15th May and  
position which may be expected to obtain thereafter. Shall  
be grateful if, after considering all points and recommendations  
made, instructions can be telegraphed to reach here by Tuesday  
27th January. Alternatively, you could telephone me  
and discuss on Tuesday.

3. Liquidation position. If there is no further  
liquidation of any kind before the Mandate ends beyond  
conclusion of deals now in progress, the total of accountable  
German enemy assets in liquid form will be between  
£(P) 500,000 and 600,000.

4. Assuming there is no deterioration of the current  
situation here, the prospects of effecting further liquidations  
are moderately good. If a policy of selection on large scale  
liquidation is to be put into operation immediately (repeat  
immediately) a further 600,000 to 700,000 might be available  
for transfer before the Mandate ends. It will, however, be  
quite impossible to effect more than a limited number of  
liquidations and so far as possible these will be of large  
blocks of land, which constitute the most important and  
valuable of German enemy assets. Enquiries as to securities  
available for liquidation and prospects in that direction  
have yet to be made.

5. There are positive indications here that Jewish  
circles in Palestine would quickly seize opportunities of  
purchasing German enemy-owned land or would back such  
purchases. They are also alive, we think, to the fact that  
this may involve some transfer of proceeds in the U.K. The  
grounds for this are given below. Nevertheless, I have just  
seen extract of the S. of S.'s telegram No. 254 from New York

Reporting  
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reporting Fletcher Cooke's conversations with Horowitz and it may well be that reaction in New York and Jewish view there is not yet understood here or that other motives prompt Jewish circles here. The grounds for the foregoing judgment are:-

- (a) The unsuppressed anxiety of the Tel Aviv Municipality to acquire Saron land. (This property is of mixed ownership for which a total purchase price of S(p) 2,000,000 approximately may be paid, of which 500,000 would be in respect of accountable German enemy assets in (?Palestine omitted).
- (b) There has been a general omnibus enquiry by representatives of Jewish institutions as to possibilities of acquiring land likely to be within the prospective boundary of the Jewish area.
- (c) One of the suggestions which have been made by Jewish lawyer connected with the Tel Aviv negotiations is that if sales of land to them were delayed beyond the 15th May, title could be more effectively secured by transfer of assets from Palestine Custodian to the U.K. Custodian. The Solicitor-General himself rather presses this solution in Palestine.
- (d) Regard for my future relations with Gregory and Elorice compelled me to discourage this suggestion.

6. It may be that what appear to be Jewish anxieties to secure properties arise through an incomplete appreciation of what the position will be when the Mandate ends and preoccupation with desire to get (?good) title which they may feel is more probable under the present regime than a future one. Until the policy of liquidation has been tested by sales, a more accurate estimation of Jewish feeling here cannot be made. To some extent, Jewish circles are in a better position to estimate future possibilities than the Administration here and in the past this unhappy land has produced some remarkably sound prophets. It is imperative that the Custodian should be given directions as to the line he should pursue and in my judgment, which is shared by those consulted here, a policy of liquidation should be implemented at once.

7. This would still leave for later decision question of transfer of proceeds. This is bound up with future of office of Custodian which so far as the present holder is concerned will terminate on 15th May. The legal position and transfer of these responsibilities (? to U.N. Commission or some other body of persons) is obscure and is to be discussed further with legal authorities.

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8. Transfer of proceeds. Solicitor-General Hogan accepts the suggestion that action would be feasible under what corresponds to our paragraph 3(i) of Custodian Order. Any direction under this order would include an indemnity clause. As to publication, the practice here has never been to publish up to date directions given under this power and opinion here it most decisive that it would be a complete mistake to do so. Far from publication acting as any kind of lightning conductor, it would create an unnecessary storm centre. This is of no immediate concern but is (?group omitted) to be should a transfer policy be adopted. Please pass to Rickett, Treasury, Trevelyan, Foreign Office, and Gregory, T.W.E.D.

Copies sent to:-

Treasury	- Mr. Rickett.
"	- Mr. H.R. Apperley.
Trading with the Enemy Dept.	- Mr. Gregory.
Foreign Office	- Mr. Trevelyan.
Foreign Office	- Mr. Beith.
Treasury	- Mr. Wolf.
Trading with the Enemy Dept.	- Mr. D. Carter.

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INDEXED

FROM PALESTINE (Gen. Sir A. Cunningham)

D. 23rd January, 1948.

R. 23rd " " 23.30 hrs.

No. 170 Secret

Following from Abbott.

Discussions reported in preceding telegram have also covered the question of communal property mainly owned by German enemy subjects resident here or in Australia. This arises in urgent concrete form in connection with Tel Aviv negotiations referred to in my preceding telegram. It now seems certain that if this deal is to go through the prospective buyers will only be satisfied as to title if custodian took the vesting action which has been previously described. This would presumably be a process of:-

(a) specification using the powers comparable with Section 2 (2) of Trading with the Enemy Act 1939.

(b) vesting under powers equivalent to U.K. custodian order.

(c) Despecification.

2. The objections to this specification are well understood and recognised here but it is clear they do not have quite the same force in Palestine. For one thing the German owner here would be only too happy to know that their properties were being liquidated; to a similar extent this is true of those in Australia.

3. Unfortunately it is known that in at least one case, one of the persons concerned in Australia has now been naturalised thus specification would mean specification of a British subject because specification will have to be, not only of locally registered communal body, but of all persons within communal body.

4. Unless Trading with Enemy Department see some overriding objection which should be voiced immediately, negotiations will go ahead with Tel Aviv on the basis that it will entail foregoing procedure.

Trading with the Enemy Department. Please pass to Rickett Treasury and Gregory

**Copies sent to:-**

Treasury	-	Mr. Rickett
"	-	Mr. H.R. Apperley
Trading with the Enemy Department	-	Mr. Gregory
Foreign Office	-	Mr. Trevelyan
" "	-	Mr. Beith
Treasury	-	Mr. Wolf
Trading with the Enemy Department	-	Mr. D. Carter

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INDEXED

[This telegram is of particular secrecy and should be retained by the authorised recipient and not passed on]

Cypher/OTF

DEPARTMENTAL

FROM NEW YORK TO FOREIGN OFFICE

(From United Kingdom Delegation to the United Nations)

No. 153 D. 3. 55 p.m. 21st January, 1948.  
21st January, 1948. R. 9. 58 p.m. 21st January, 1948.

IMMEDIATE  
GIANT  
TOP SECRET

Addressed to High Commissioner Jerusalem telegram No. 18 January 21st repeated to Foreign Office and saving to Washington.

Following for Gurney from Fletcher-Cooke.

[Begins]

I had a very interesting talk with Horowitz last night, from which it transpired, inter alia, that the Jewish Agency representatives of whom he is one, are in very close contact with the Commission. He was very frank and forthcoming and mentioned the following points.

(1) Cost of combatting illegal immigration and Cyprus camps.

It is the Agency's intention to contest before the Commission and, as he put it, "before the bar of world opinion and, if necessary, before the Permanent Court of International Justice" any attempts to saddle the assets of Palestine with the cost of the Cyprus camps. His argument was that the permanent Mandate's Commission, the Anglo-American Commission and the United Nations had condemned His Majesty's Government's prevention of Jewish immigration as contrary to the provisions of the Mandate, and that on these grounds the Agency and the government of the new Jewish state would never rest until this charge was accepted as a liability by His Majesty's Government.

(2) Clearing of Cyprus camps.

The Agency hoped that His Majesty's Government would agree to clear the Cyprus camps before the termination of the Mandate. If they did not, it was extremely probable that the Agency would concentrate its energies on bringing young Jews of military age from displaced persons camps in Europe as soon as the Agency was in a position to control immigration, leaving it to His Majesty's Government to

/ maintain

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(3) Security force.

A. That the Jews in Palestine were fully capable of defending themselves against, and setting up the Jewish state in the face of opposition from, the Palestine Arabs.

C. That even (a) would leave such a legacy of bitterness and would result in such losses to the Jews, that the Jewish state then established would start off in the worst possible circumstances.

D. That it was up to the United Nations and not merely the Jews to enforce partition. The Agency therefore hopes that a force of some 10,000 to 15,000 troops would be provided by the big five (including the United Kingdom) with token forces from some of the smaller states. The Agency felt that this force, backed with all the authority of the United Nations, would be sufficient to keep the peace. He did not seem to think that it would actually have to fight but that its presence would be sufficient to ensure the setting up of the new regime. He appeared to be under the delusion that such a force could be agreed upon, collected and sent to Palestine before the date of the termination of the Mandate.

(4) Compensation terms.  
He said that the Agency appreciated that compensation terms were being considered in London, but that at least in respect of Palestinian officers, the Agency would challenge the right of the Government of Palestine to make arrangements involving the expenditure of Palestine funds after the date of the termination of the Mandate, without prior consultation with the Commission as to the terms to be offered. He

(5) Energy property.

/ He added

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-3-

He added that the Jewish Agency were prepared to take over His Majesty's Government's obligations in respect of these German assets, but then clearly showed that he did not appreciate what these obligations were by saying that of course the Jews were entitled to the whole of this property.

(6) Palestine and the sterling area.

He said that the Jewish Agency were of the opinion that it would be to the mutual advantage of both Palestine and the sterling area, if Palestine continued to be a part of the sterling area. He said that if His Majesty's Government agreed to this, the Jews would wish to have complete autonomy as regards their foreign exchange control but that they would not (repeat not) expect to receive any dollars from the pool. Their policy would be so to control imports from the hard-currency areas that they would not (repeat not) exceed what could be paid for by (A) the proceeds of exports to hard-currency areas, and (B) the contributions and remittances of capital they expect to receive from hard-currency areas.

(7) Continued employment of existing staff.

He said that the new Jewish state and the economic union would welcome the continued service of certain British officers, if possible on loan or secondment but if not, on a contractual basis. He also said that all Jewish officers except those suspected of corruption would be offered employment in the new Jewish state, though "some of the less efficient ones would be down-graded". He said there would be no (repeat no) discrimination against particular Jewish officers on political grounds.

(8) It appears that the Palestine Commission is to set up a three-man Economic Commission (presumably the embryo of the Economic Board) consisting of two representatives of governments not (repeat not) represented on the Commission and one United Nations Secretariat officer. The Jewish Agency have submitted a list of names, including Wood formerly statistician in Palestine now statistician to the New Zealand Government.

[Ends]

Please pass immediate to Colonial Office for Martin and immediate to Jerusalem as my telegram No. 18.

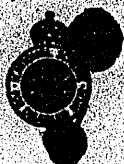
[Advance copies sent to Telegraph Section, Colonial Office for transmission to Jerusalem and copy sent to Colonial Office for Mr Martin.

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**Tel. No. Whitehall 1234**



**Your Reference .....**

Treasury Reference QE 85/27/1



TREASURY CHAMBERS,  
GREAT GEORGE STREET,  
LONDON: S.W. 1

27th January, 1948

**IMMEDIATE**

**INDEXED**

2 FEB 1948

Dear Trevelyan,

With reference to our telephone conversation, I enclose two copies of each of the draft telegrams to Palestine in reply to those from Abbott, Nos. 169 and 170, of the 26th January, about the further liquidation of German assets in Palestine.

I have spoken to Carter, of Trading with the Enemy Department, and he agrees that we should go ahead with liquidation and transfer as soon as possible. Gutch, of the Colonial Office agrees with this policy, but asked whether a decision as expressed in these draft telegrams was not anticipating a Ministerial decision.

I should be grateful if you would look at this point, and let Rickett (or myself) have your comments on this and on the draft telegrams as soon as possible.

Yours sincerely,

*W.A.R. Wolfe*  
(W.A.R. WOLFE.)

H. Trevelyan, Esq., C.I.E., O.B.E.,  
Foreign Office.

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37  
Draft telegram to PALESTINE.

Repeat to WASHINGTON, to pass to U.K. Delegation,  
New York.

IMMEDIATE.

Following for Abbott.

Your telegram 169 Secret. [ of 26th January, German  
assets in Palestine. ]

1. We consider that a decision in principle concerning transfer of proceeds must be taken before we decide on further liquidation, leaving only mechanics of transfer for later decision. In deciding to liquidate we commit ourselves to a loss if we do not transfer, in that we will have to account in full for liquid assets.

2. We have considered all aspects, including the political aspect as set out in your paragraph 5, and have come to the conclusion that transfer of proceeds should take place.

3. In these circumstances we agree that further liquidation should be undertaken immediately on the basis of your paragraph 4.

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38  
Draft telegram to PALESTINE.

Repeat to WASHINGTON, to pass to U.K. Delegation,  
New York.

IMMEDIATE.

Following for Abbott.

Your telegram 170 Secret. [ of 26th January,  
German Assets in Palestine. ]

1. We agree to specification, vesting and  
despecification where necessary.
2. Trading with the Enemy Department have no  
*substantial*  
objections to the specification of an Australian

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# INWARD TELEGRAM

TO THE SECRETARY OF STATE FOR THE COLONIES

En Clair

FROM PALESTINE (Gen. Sir A. Cunningham)

D. 27th January, 1948.

R. 27th January, 1948. 19.30 hrs.

INDEXED

Immediate  
No. 199.

Following from Abbott Begins.

1. Ecclesiastical Property. This is an item of major importance which all here would like to settle finally before the termination of the mandate. The estimated value is over £4 million and there is over £20,000 in cash. Some of the property is vested in the Custodian but for the most part it is not vested.
2. Under Article 6A of the Paris Act we have the right to dispose of German enemy assets within our jurisdiction in such manner as we choose. This right does not presumably exclude these ecclesiastical properties even though it has been decided by I.A.R.A. under the accounting rules that these assets need not be brought into our reparation account. In all the satellite peace treaties there is a provision excluding property belonging to religious bodies or charitable institutions and used exclusively for religious or charitable purposes. (See 6(B) of Article 79 of the Italian Treaty). It is inconceivable that in any peace treaty with Germany that there will be provision for dealing differently with these ecclesiastical assets. Consequently, there seems no reason why the Custodian should not be directed to dispose of these properties in anticipation of final arrangements in a peace treaty which will undoubtedly be made by releasing unvested properties from Custodian control to such persons as would, in the local view, come within the description of Art. 5 (2) of the Custodian Order, and paying over monies and transferring vested properties to similar persons or bodies of persons. As regards invested property, some amendment of the law might be necessary to free it from control, but this would present no difficulty.
3. As you already know, arrangements have already been approved for allowing a representative of the World Lutheran Federation to have, under the supervision of the Custodian, control and management of all the German Lutheran properties (your despatch 18250/1/47 SP/374/47 of 5th January Palestine No. 1 refers). Under the proposals in mind, all these properties would be released immediately to the World Lutheran Federation and to Dr. Moll as its representative.
4. This procedure is also proposed to be followed as regards all other ecclesiastical property where the evidence as to the nature of the property shows that it is clearly within the accounting exception, and there is a responsible person or body here to whom it is considered the property can be transferred.
5. Any objections to this course of action should be telegraphed as soon as possible. I expect to return on Thursday and will be available for discussion on Monday 2nd February.

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6. The immediate release of these ecclesiastical properties would relieve the Palestine Custodian of a considerable weight of responsibility at a time when he is hard pressed and will enable him to concentrate on other vital matters. Pass to Rickett Treasury and Gregory T.W.E.D.

Copies sent to:-

Trading with the Enemy Dept.	- Mr. Gregory
" " "	- Mr. D. Carter
Treasury	- Mr. Rickett
"	- Mr. J.E. Abbott
"	- Mr. Russell Edmunds
"	- Mr. H.R. Apperley
Foreign Office	- Mr. B.A.B. Burrows
"	- Mr. Trevelyan
"	- Mr. Beith

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1948	E	E 2382 19 FEB 1948
	PALESTINE	

Registry Number } E2382/38/31 FROM } 70 Minute No. } M'Beith Dated } Received in Registry } 5 Feb 19 ~	German Assets in Palestine Text of meeting at Treasury on Feb 4 discussing question of liquidation of German Assets in Palestine, discover point of desirability of appointing an interim committee to administer German Assets in Palestine on behalf of HM Govt after May 15.
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Last Paper. 1884  References.	(Minutes.)  J. P. P. 70 Minute M'Vallat 1/2 " " M'Kendall 9/2 " " " 11/2 Pub Off Board, E.P.C (48) 7 21/1 JB Feb. 21
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(Print.)  (How disposed of.) Apts, M'Beith Treasury. from J.P.P. Beith Feb 21  M'Beith Comp Feb. 20 Abbott Leg. Feb 21	
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(Action completed.) 1 Feb 22/1	(Index) 31/1/49
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2582

GERMAN ASSETS IN PALESTINE.

19

I attended a meeting at the Treasury on February 14th to discuss this question further. Mr. Abbott has just returned from inspecting the situation in Palestine, and he produced two papers which are attached.

We soon entered into a discussion of the proposal contained in paragraphs 21-23 of Mr. Abbott's report. This ~~proposal~~ that we should arrange for the legal custodianship position to be preserved in respect of assets left in Palestine. According to Mr. Abbott, this would involve us in being a sort of absentee landlord for the unliquidated assets in Palestine. It is not explained exactly how this would be done, but, as far as I could understand from the discussion, it would involve appointing an interim custodian or bailiff to hold and administer the assets on our behalf, pending their later liquidation.

I opposed this suggestion strongly, and was joined in so doing by Mr. Gutch of the Colonial Office. I said that the O.N.C. paper had been submitted to higher authority in my department, and that we were in entire agreement with the recommendations on this subject in the paper (paragraph 37). The present suggestion was quite new and entirely contrary to our policy of terminating our responsibilities in Palestine as soon as possible. The continuation of custodianship would be a perfect example of responsibility without authority.

Mr. Rickett, who was in the chair, was inclined to agree with the Foreign Office and Colonial Office view, but asked that I should submit the matter to our legal advisers, which I promised to do. Briefly, the position is as follows.

The German external assets in Palestine form part of the British quota under I.A.R.A., and we are responsible for liquidating them and accounting for them to I.A.R.A. In the normal course of events, we should have transferred the proceeds to the United Kingdom and held them until the final accounting date. The Foreign Office agree that we should act as proposed in paragraph 37 of the O.N.C. paper, i.e. that we should liquidate as much as possible and endeavour to get the U.N. Commission to take responsibility for the rest and absolve us from accounting for that much to I.A.R.A. If we were absolved from this responsibility we should hope to receive the equivalent amount from other sources in the final pay-out of I.A.R.A., and not be involved in a loss equivalent to the amount liquidated.

The only valid basis for the present suggestion that we should continue custodianship is that we would in no circumstances escape responsibility for accounting for the unliquidated assets, and that to continue a

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the assumption

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form of custodianship might help us to liquidate and transfer such assets during the years following the termination of the Mandate.

*J.G.S. Beith*  
J.G.S. Beith.  
5th February, 1948.

Mr. Vincent Evans,  
Economic Relations Dept. for obs.

Ultimately I think that the decision will rest with the I.A.R.A. Assembly as to whether the U.K. is called upon to account for German assets which remain in Palestine after the termination of the mandate. Whether we take any action to retain control over those assets or not, I think that we shall be able to present some sort of case to the Assembly ~~in order to justify the U.K. being excused from accounting for what the U.K. does not get.~~ For example, we should be able to contend that, when Palestine ceases to be under the mandate of the U.K., the German enemy assets there ceased to be within the "jurisdiction" of the U.K. within the meaning of Part I, Article 6A of the Paris Reparation Agreement. We might then say that Article 6 no longer applied to these assets and therefore that the U.K. was not required to account for them. This argument might not be accepted by I.A.R.A. but it ought to be possible to raise a certain amount of sympathy if we do not in fact get the property.

I am doubtful in my own mind how the appointment of an absentee custodian to hold the assets after the termination of the mandate will affect the position. On the one hand, the I.A.R.A. powers might say that the U.K. had done all in its power to preserve the assets for reparation purposes and, having failed, had better grounds for claiming excuse from accounting. On the other hand, they might say that, since the legal title continued to be vested in an officer responsible to the Government of the U.K., the U.K. was still liable to account for the assets.

There are, of course, many factors in the complex situation arising out of the termination of the mandate. I have, however, confined myself to the above comparatively simple considerations because I think that the problem fundamentally is to be governed by political considerations, and ~~therefore~~ that what I have said should go some distance towards answering the question which Mr. Beith has in mind. If there are any other questions to be answered from the legal point of view, I shall be very glad to try to provide answers or to discuss them with Mr. Beith.

*F.A. Wallat*  
F.A. WALLAT  
7th February, 1948.

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I entirely agree with Eastern Dept. that we cannot have a U.K. custodian responsible for these assets after the termination of the mandate. Among other objections, I suggest that this would arouse political opposition in the U.S., if not in Palestine itself, & make us more & not less liable to IARA for assets which are not in our control at the end of the mandate, & are not likely to come under our control subsequently, even if there is a U.S. custodian agreement. For anyone, he would not derive any authority from the U.K. Govt.; but would be an English officer of the successor Govts. or the U.N. Commission acting on their behalf. He would not be subject to HMG's orders, nor could liquidated assets be transferred to the U.K. except by inter-governmental agreement between HMG & the successor Govts.

Finlayson.

9/2/49.

Eastern Dept.

Don't

8/3 Feb. 49

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Mr. Vallat's minute on the draft.

I fail to see how the U.K. Govt., after relinquish-  
ing the mandate, can appoint an official who would  
have any jurisdiction in Palestine, having themselves  
no jurisdiction there. I see no difference between this  
and the appointment of say an Inspector  
by H.M.G. of (say) an Inspector of Schools in Czechoslo-  
vakia.

I should therefore prefer to say that as H.M.G.  
is giving up the mandate and consequently  
will have no jurisdiction over Palestine, they  
must ipso facto lose control over all matters  
vested in the Palestine Government, which will  
pass to the successor authority. The question of  
the appointment of a U.K. Custodian cannot  
therefore arise.

H. P. W. J. P.

17/2/48.

Eastern Dept.

Nothing to be written in this margin.

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Draft. LETTER TO:

MR. RICKETT, H. M.  
TREASURY.

FROM:

J. G. S. BEITH ESQ.

NOTHING TO BE WRITTEN IN THIS MARGIN.

E. R. D. FIRST.

10 Feb 44

44

You may recall that at a meeting in your room on 4th February I promised to let you have our Legal Adviser's views on the desirability of appointing an interim custodian to administer German assets in Palestine on our behalf after 15th May.

Our legal advice on this point is that the decision will rest with the I.A.R.A. Assembly as to whether the U.K. is called upon to account for German assets which remain in Palestine after the termination of the Mandate. Whether we take any action to retain control over these assets or not ~~we~~ <sup>should</sup> ~~think that we shall~~ be able to present some sort of case to the Assembly to justify the U.K. being excused from accounting for what the U.K. does not get. For example, we should be able to contend that, when Palestine ceases to be under the Mandate of the U.K., the German enemy assets there cease to be within the "jurisdiction" of the U.K. within the meaning of Part I, Article 6A. of the Paris Reparation Agreement. We might then say that Article 6 no longer applies to these assets and therefore that the U.K. is not required to account for them. This argument might not be accepted by I.A.R.A. but it ought to be possible to raise a certain amount of sympathy if we do not in fact get <sup>any property</sup> ~~authority~~.

It is not clear how the appointment of a custodian to hold the assets after the termination of the Mandate would affect the position. On the one hand, the I.A.R.A. powers might say that the U.K. had done all  
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in its power to preserve the assets for reparation purposes and, having failed, had better grounds for claiming excuse from accounting. On the other hand they might say that, since the legal title continued to be vested under an officer responsible to the Government of the U.K., the U.K. was still liable to account for the assets.

To our mind the last consideration <sup>is</sup> the more weighty and it seems to us that from a practical point of view, to maintain effective custody will inevitably involve us in responsibility for accounting. Moreover, as I pointed out at the meeting, the Foreign Office <sup>are strongly against</sup> ~~cannot agree to having a~~ <sup>Continuing</sup> ~~U.K. custodian~~ <sup>likely</sup> responsible for the assets after the termination of the Mandate.

The main object of our policy in withdrawing from Palestine is to ~~divest~~ <sup>inherent</sup> ourselves of the serious political difficulties ~~adherent~~ in the Mandate. To retain a custodian would be contrary to this policy and might well arouse political suspicions and opposition <sup>in the U.K.</sup> ~~abroad~~; if not in Palestine itself. The position of an interim custodian would be most anomalous. He <sup>would</sup> ~~could hardly~~ be subject to the orders of H.M.G. nor could he transfer liquidated assets to the U.K. except by intergovernmental agreement between H.M.G. and the successor governments.

I am sending <sup>copy</sup> ~~a copy~~ of this letter to ~~Mr~~ Abbott and Lutch

Moreover, a Custodian, while retaining a nominal title & responsibilities, could not exercise any effective <sup>control</sup> over the assets in Palestine, ~~except by permission of the successor governments~~

Is this quite right? His difficulty would be that while the H.M.G. order of H.M.G. would be subject to the order of the H.M.G. in Palestine. 16/2

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Mr. J. E. Abbott, 21st - 30th January.

Attorney General.  
Solicitor General.  
Custodian of Enemy Property.  
Assistant Custodian.

5. As to (ii), the legal steps to safeguard the assets may be taken before our mandate expires on the same lines as they are being taken in the United Kingdom. But the overworked administrative and legal machine may not be able to do this. Even if it does the position of this property after the mandate expires, in the absence of any Custodian or Administrator, is most obscure and owners may be able to repossess themselves of their property. This is however of little concern to H. M. Government. Though we signed the Peace Treaties and Palestine did not, it will be a Palestine headache later on to solve this conundrum and safeguard

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There are in liquid form at this moment L(P) 300,000 approximately of accountable assets and another L(P) 150,000 approximately of what are described as "Jewish" assets which are also probably accountable under I.A.E.A. rules. There are also sales in progress which will almost certainly be completed and will yield another L(P) 100,000 to L(P) 150,000 before 15th May, 1948. So if nothing further happened in regard to sales there will be a total in liquid form of about L(P) 500,000 to L(P) 600,000 to account for.

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8. This procedure, while objectionable as a revival of the Statutory List, if only for a brief space of days possibly and in respect of a most limited field, has the advantages that it will establish a sound title to the satisfaction of the Tel Aviv Municipal authority's legal advisers, it will meet the known desires of all the German internees in Palestine and Australia who wish to see their assets in liquid form provided the cash is released to them and it will assure a sale which is greatly desired by certain Jewish elements.

10. It is estimated that the Barona lands will fetch of L(P) 2,000,000 of which L(P) 500,000 is reckoned as accountable as German enemy assets.

2



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of the meeting at appendix B. So far as can be judged the reasons for this are:-

- (i) That now is the time to secure property, particularly on the Jewish side, so as to ensure that future development is on lines conceived as best serving "national" interests;
- (ii) A touching faith in our integrity to pass a good title;
- (iii) A fear of unscrupulous speculators appearing when, on the expiration of the Mandate, conditions will favour a free for all scramble;
- (iv) Investment in land is a good thing just now and for the most part funds are available or can be guaranteed.

12. Once the procedure for the German lands sale is finally settled it will establish the precedent for future sales of large blocks of land although the Land Transfer Regulations may prove a difficulty in certain cases. As a matter of politics offer of sale of enemy lands by public tender would be a necessity, but even so it is thought here that a considerable amount of enemy property could be liquidated in, say, a period of two to three months.

13. Reasons for pressing on with liquidation. As indicated, the prospects are fairly good. Only however when a policy of liquidation is in full swing will it be established whether it was justified. Accepting that we can liquidate now, then it seems it is our bounden duty to do so. We should find it difficult to rebut a charge of neglect if it was found that we had done little or nothing to liquidate German assets between now and the expiry of the Mandate when conditions were favourable towards liquidation, despite the many other pre-occupations which engaged our attention. Also, for reasons which will be further developed later it seems a good thing to liquidate assets and thus go some way towards tidying up a position which as described in J. above is so unsatisfactory, leaving as it does so many undischarged international responsibilities.

14. Transfer of liquid Assets.

This could be effected by the simple expedient of a direction under Article 5(1) of the Trading with the Enemy (Custodian) Order, 1939. The direction would not be publicly announced, it not being the practice to publish any of these directions and publication is considered here to be more certain to be misconstrued and misrepresented than to disarm criticism. This would be the likely result of publication even if accompanied by explanation relating transfer to the fulfilment of obligations under the Paris Act.

15. Local feeling outside official circles on the question of transfer of liquid assets to the United Kingdom is very difficult to gauge. It almost seems at times as if there has not been any clear thought on the matter at all. The indications gathered at the interviews with Messrs. Lewis, Horowitz and Kaplan were that the first two would be eager to press on with purchase of assets and have no reservations in their minds as to the disposal of the proceeds. However it is not possible to form a final conclusion on the Jewish view; such depends upon whether what seems to be acquiescence on the part of Jewish circles here to transfer of liquid assets would be shared by the counterpart of the Jewish Agency in New York.

16. Administrative and legal opinion in Palestine is that we could completely justify transfer of the liquid assets and that such an action would not meet with violent antagonism here from Jewish quarters. There is just the possibility that seeming agreement in Jewish circles here to transfer, which is implied from their readiness to buy and what they have expressed as their desires in the matter of future custody of the assets pending the establishment of fresh local authorities, may be a belief that even though they have undertaken to purchase these German assets and pay money to the Palestine Custodian they may be able to prevent their transfer ultimately or may even secure re-transfer as a result of a terrific hue and cry at Lake Success. But this may be a quite unwarrantable suspicion.

17. Post Mandate problems of custody of enemy assets. Besides the question of the transfer of liquid assets - to whom and in what manner transfer is to be made -

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there are a number of other problems as to the position after we leave and what is to happen to all the assets now under the control of the Custodians. There is no doubt that Jewish circles in Palestine are extremely worried on this score. During a talk with Mr. Harowitz and Mr. Kaplan they quite openly expressed their anxieties. When the subject was raised I did take the opportunity to point out to them that while we were still in some doubt and were in the throes of trying to find some satisfactory solution and recognized that any solution depended upon what attitude the United Nations Commission took on this subject, we were constrained from making proposals by the understandable feeling that any solution that we might propose would be most grossly mis-represented, and I referred to the responsibilities under the Paris Act. They assured me that any proposals which we put forward which were fair and equitable would, so far as they were concerned, receive a fair hearing.

17 A. Mr. Harowitz and Mr. Kaplan also referred to the Satellite assets position, and also to Polish assets. There is said to be a large element of "Jewish" money in these assets and there have been already some cases of gross misappropriation of justice, they allege, which have led to the admission of claims of bogus heirs to some of this property. They are much concerned that these assets shall also continue in safe custody.

18. Unless we are going to resign ourselves to leaving custodianship affairs in a most unsatisfactory and hazardous position it seems to me, and responsible officials here share my view, that we should take every means in our power to clear up the Custodian's office as far as it is humanly possible to do so. To that end we have felt that the following courses should be pursued:-

- (1) Liquidations should be carried out to the maximum extent possible.
- (2) We should see whether it is not possible for the Custodian to be relieved of all responsibility for ecclesiastical property - hence the recommendation in Telegram ..... very attached.
- (3) That all liquid assets whether representing accountable German enemy assets or those which cannot be yet definitely placed in that category, e.g. the money due to communal bodies and to certain enemy subjects should be also transferred.
- (4) We should endeavour, so far as possible, to ensure that there are, immediately the Mandate ends, some satisfactory arrangements whereby at any rate the legal custodianship position may be preserved in respect of assets left in Palestine which have not been transferred under (3) or have not been liquidated.

19.

20. The most constructive policy would be to go forward with liquidation with all despatch and stand the risk of whether or not we should be able to get the assets transferred. We should be in a much stronger moral position and more likely to secure recognition of any inability to account for assets at the I.A.R.A. if we had done all we could but had been hampered by the unfair machinations of unreasonable factions.

21. Further it would be greatly to our credit if we could secure some arrangement whereby all the assets were, so far as possible, put into safe legal custody in the period intervening between the firm establishment of suitable authorities in Palestine to whom responsibility for these assets could be assigned. The Palestine administration, supported by its legal advisers feel that the following line of action should receive the most careful consideration of the U.K. authorities. In the first place we should consider both as regards transfer and the future custody of assets remaining in Palestine until successor Government is able to assume the responsibility, what comprehensive plan we could put before the U.N. Commission. The impression I have formed here is that of all the problems with which the Palestine Administration has to deal this one is of the most complex nature the burden of which is not eased by an efficient Custodian, and it is hopeless to expect that the U.N. Commission can come forward with any plan of their own however skilfully they may be prompted and advised by outside

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bodies e.g. the Jewish Agency. Therefore it is considered that we should definitely propose the transfer of the liquid assets basing our arguments on the lines of those used B.E.(G.N.) (46) 15. That we should in addition put forward the suggestion that in regard to all the other assets in Palestine for which the Palestine Custodian is responsible up to the date of the termination of the Mandate should in some manner be "frozen" in the legal sense by transferring all his vesting to some one in the U.K. It has been particularly impressed upon me here that locally there is a healthy respect for the legalities and that although a number of squatters and others may for the time being infringe the legal rights of custodianship in the absence of process of law to prevent them, nevertheless responsible elements here would feel confident that if the legal status quo was preserved then many dangers of dissipation of the assets would be removed. It is therefore the feeling in Palestine that either the U.K. Custodian for Enemy Property in the U.K. should receive a transfer of the powers over the property now held by the Custodian of Enemy Property in Palestine or that some other person in the U.K. should be appointed for that purpose. Special conditions would however be attached to such transfer. The first and most important of these would be that at any time it would be within the power of the U.K. person appointed to relieve himself of that responsibility thus leaving the position very much as it will be if no arrangements at all are made for continuing the present Palestine Custodian powers when his authority lapses. Further it should have power to transfer his authority to the authority or authorities designated by the U.N. Commission if he thinks it proper to do so.

22. There has not been time to work out in any detail the legal and other steps which will be necessary for this purpose or to consider the practicability of imposing a sort of figural responsibility on someone outside Palestine who could have no access to documents or records of any kind.

23. From my discussions with Mr. Kaplan and Mr. Horowitz I feel that they would exert all the influence they have towards the support of any scheme which ensured continuity of legal responsibility and that assured the position would be "frozen" as it existed on the termination of the Mandate, until the appointment of Custodian authorities in Palestine.

24. To sum up the best solution to this very difficult problem of enemy assets in Palestine seems to be

(a) for the Custodian to shed all responsibility that he can within the time available by

- (1) implementing property agreements;
- (2) releasing all ecclesiastical property;
- (3) liquidating as much as possible.

(b) to present a comprehensive case before the U.N. Commission for

- (1) the transfer of liquid assets,
- (2) the preservation of the Custodian's rights over other property in Palestine until the U.N. or some other body is in a position to do so to whom these rights should be transferred but retaining the right of the U.K. Custodian or any other U.K. appointee to divert himself of all these rights in the event that he found himself in an impossible situation.

An essential element of the proposals to be put forward before the U.N. Commission should be that the responsibility to account to the Inter Allied Reparation Agency for German enemy assets in Palestine is recognised as one which can only be discharged through H. M. Government.

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Memorandum on Questions arising for Discussion  
at Meeting to be Held in Treasury on 4th January

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GERMAN ASSETS IN PALESTINE

Memorandum on Questions arising for Discussion  
at Meeting to be Held in Treasury on 4th January

As it has now been decided that the liquidation of German enemy assets in Palestine should go ahead with all practicable speed between now and the end of the Mandate, and that the proceeds should be transferred to the United Kingdom, a number of other questions call for very early consideration and decision, viz:-

- (1) to whom should these liquid assets be transferred and under what conditions;
- (2) what should be done with regard to other non-accountable liquid assets, e.g., German enemy subjects; *have trade*
- (3) what is to be done to preserve titles to non-liquid assets remaining in Palestine;
- (4) should we take steps to lay before the United Nations Commission a statement as to what we are doing in respect of the responsibilities at present carried by the Custodian of Enemy Property in Palestine.

2. When I was in Palestine these matters naturally came under review and were discussed at some length and before I left I drew up a statement, a copy of which is attached, setting out the results of discussions and enquiries which took place during my visit and the reasons for pressing the decision to liquidate and transfer as contained in telegram number 169. The decision to liquidate and transfer will come as a great relief to the administration in Palestine who are very much concerned as to the many outstanding obligations which exist in respect of custodianship and they would like to see all measures ~~that~~ it is possible to take between now and the end of the Mandate that will

- (a) discharge as many as possible of the responsibilities they hold in respect of all assets held by the Custodian of Enemy Property, and
- (b) ~~take such steps as are possible to~~ safeguard the position in respect of undischarged responsibilities until some other authority in succession to the Custodian of Enemy Property in Palestine is appointed.

The policy of liquidation and transfer will go some way towards the fulfilment of H.M.G.'s obligations in respect of German enemy assets which are accountable to I.A.R.A. and if the recommendation in telegram number 199 of 27th January in respect of ecclesiastical property can be adopted, a further large block of immovable property will be removed from the Custodian's responsibility.

3. The administration in Palestine were much concerned as to the position which ~~would~~ develop on the termination of the Mandate and the consequential termination of the Custodian's office and all subsidiary

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appointments. Unless some fresh appointment is made, under the authority of the United Nations Commission perhaps, there will be no satisfactory legal hold over a lot of property in Palestine, and so far as H.M. Government and Palestine is concerned, there will be the following consequences:-

- (1) Property Agreements between H.M. Government and Allied Governments which have been extended to Palestine, e.g., the Anglo-French Property Agreement of 29th August, 1945, will not be fulfilled - some may not even be commenced to be implemented;
  - (2) The rights of seizure under the Peace Treaties with the Satellite ex-enemy States, Italy, Roumania, Bulgaria and Hungary, will not have been put into operation;
  - (3) There will be a large number of immovable German enemy assets accountable under the Final Act of Paris unliquidated.
4. The discussions with the Palestine officials moved unanimously towards seeking solutions along the following lines:-
- (1) That if the policy of liquidation and transfer was approved then we should as soon as possible take steps either to encourage the United Nations Commission to discuss the question of accountable German enemy assets in Palestine and the whole field of the Custodian of Enemy Property's responsibilities in Palestine and how they are to be maintained after the Mandate ends, or come forward ourselves with clear-cut and definite proposals.
  - (2) That urgent consideration should be given as to the best manner in which custodianship could be continued over the period which is envisaged must elapse until fresh authority is established in ~~Palestine~~ to appoint a Custodian or Custodians.
5. As to (1) above, it seems impossible to expect that the United Nations Commission can themselves make any useful contribution to the solution of the problems which arise in this field when the Mandate ends. Local feeling in Palestine is that we can leave behind grounds for better future relations with Palestine by taking steps now to safeguard the position of Custodian held property in Palestine as far as possible until somebody is in a position to assume that responsibility and that we should do so. Further it will be impossible to go very far with the process of liquidation and transfer without some enquiries inspired by the Jewish Agency being made by the United Nations Commission and these will be most probably couched in a form to misrepresent the whole position. Therefore, we should get in our case as soon as possible.
6. It was also the opinion in Palestine that if we were going to take steps to liquidate accountable assets and transfer them to the United Kingdom we would necessarily become involved with the question of non-accountable German enemy assets (the property of German enemy subjects) and for this reason and for the reason that we could not just simply cut loose of our other responsibilities in respect of Property Agreements, and also because we knew there was strong feeling in Jewish circles about the future of all the Custodian held assets, we ought to consider comprehensive proposals for dealing with the Custodian's responsibilities when the Mandate ended.

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8. The foregoing summarises discussions with Mr. Dorman, Under Secretary to the Chief Secretary, and Mr. Dobbs, the officer in the Secretariat responsible under Mr. Dorman for custodianship matters and Mr. Gibson, Attorney-General, and Mr. Hogan, Solicitor-General. The latter is, I believe, preparing a paper which it is hoped shortly to receive, presenting in greater detail the proposals for transfer of responsibility which the Palestine administration and its legal advisers have in mind.

(1) What recommendations we should make to Ministers in respect of presentation to the United Nations Commission of a statement as to the action we are going to take in respect of

- (a) German enemy accountable assets in Palestine, and
- (b) Other assets presently under the control of the Custodian of Enemy Property, Palestine.

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- (2) In what manner and to whom should ~~we~~
- (a) transfer ~~of~~ liquid assets ~~be made, and~~
- (b) transfer ~~of~~ custodianship responsibilities in Palestine, ~~to whom and to what extent.~~

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21st January, 1948

**INDEXED**

**CABINET**

**Economic Policy Committee**

**FINANCIAL AND ECONOMIC QUESTIONS RESULTING FROM THE  
WITHDRAWAL FROM PALESTINE**

**MEMORANDUM BY THE CHANCELLOR OF THE EXCHEQUER**

I attach for the consideration of my colleagues the report of the Overseas Negotiations Committee on financial and economic questions arising out of the withdrawal of British authority from Palestine, for which the Cabinet asked at their meeting on 4th December (C.M. (47) 93rd Conclusions, Minute 1).

2. It will be observed from paragraph 4 of the report that the following three questions are dealt with in a separate memorandum which is being circulated as E.P.C. (48) 8 :—

- (i) Should Palestine leave the sterling area?
- (ii) Should Palestine sterling balances be blocked?
- (iii) Should the Palestine Currency Board continue to operate?

3. The following is a statement of the recommendations for which approval is desired :—

**A.—Oil Interests (paragraph 14)**

It is recommended that Sir Alexander Cadogan should seek to establish with the United Nations Commission that :—

- (a) All agreements between the Palestine Government and the Iraq Petroleum Company Limited and Consolidated Oil Refineries Limited, respectively, should be treated in accordance with Chapter 3, paragraph 3 (d), of the Plan of Partition with Economic Union, *i.e.*, that they shall continue to be valid according to their terms, unless modified by agreement between the concession-holder and the State.
- (b) The British oil companies in Palestine should be free to export petroleum products to such destinations as they choose.

It is further recommended that Sir A. Cadogan should be asked :—

- (c) To give early warning of any hint that the Commission may be considering dollar-invoicing the products of the Consolidated Refineries Limited.

**B.—Assets and Liabilities (paragraph 30)**

It is recommended that in his negotiations with the United Nations Commission Sir Alexander Cadogan should ensure that :—

- (a) A clear distinction is drawn between Palestine Government assets and assets of His Majesty's Government.
- (b) That the vesting of land directly in the Service Departments is duly acknowledged as full and clear title of His Majesty's Government Departments, with freedom to dispose of such assets as they may deem desirable should they not be disposed of before the termination of the Mandate.

It is further recommended that Sir Alexander Cadogan should be asked :—

- (c) To discuss with the Commission plans for the safe custody of such stores left behind by the military, and for their movement to the Haifa enclave for subsequent evacuation, possibly an appreciable time after 1st August.

It is further recommended that Sir Alexander Cadogan should be asked to establish the following principles :—

- (d) That the surrender of Palestine Government assets is conditioned on the unqualified acceptance of the liabilities incurred by the Palestine

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Government (there is every indication that the liabilities will exceed the liquid assets).

- (e) That notwithstanding clause 2 of Section E of Chapter 4 of U.N.S.C.O.P. Report (see footnote), as long as the mandatory period lasts, Palestine Government must be free to control the finances of Palestine as she deems necessary in the interest of Palestine as a whole, and
- (f) That adequate arrangements are made to indemnify His Majesty's Government in respect of their guarantee of Palestine 3 per cent. Guaranteed Stock, and for payment of superannuation benefits.

C.—*German Assets* (paragraph 38)

It is recommended that a final decision on implementing the policy which would best serve His Majesty's Government's interests financially, described in (a), (b) and (c) of paragraph 37, should await the report of the Treasury representative now in Palestine, it being understood that so far as can be determined at present any alternative to the policies advocated in (a) and (b) must definitely result in serious loss to the Exchequer, some of which will be in terms of lower receipts of hard currency (Swiss francs from German assets in Switzerland).

D.—*Safeguards for Commercial Interests* (paragraph 44)

It is recommended that Sir A. Cadogan should be asked :—

- (a) On the treatment of goods, to discuss the question with the Commission on the lines proposed in paragraph 41.
- (b) On the treatment of nationals, companies and shipping, to secure an undertaking from the Commission that, while they are responsible for administering the territory, they will grant to United Nations nationals, including juridical persons, national and most-favoured-nation treatment in all matters pertaining to commerce, industry, shipping, civil aviation and other forms of business activity within Palestine, subject to the reciprocal grant of similar treatment in like matters by the United Nation concerned to Palestinian nationals. This undertaking would be understood to be subject to any exceptions customarily included in commercial treaties. Similarly the provisions with respect to reciprocity granted by each of the United Nations would be understood to be subject to the exceptions customarily included in the commercial treaties concluded by that State. The Commission should also be asked to ensure that, in handing over to the successor States, if and when established, a similar undertaking valid for a period of at least two years is obtained from them.

E.—*Exports from Palestine* (paragraph 46)

It is recommended that Sir A. Cadogan be asked to request the United Nations Commission to facilitate the exports of citrus and potash to the United Kingdom.

F.—*Procurement of Food-stuffs and Fertilisers* (paragraph 51)

It is recommended that Sir A. Cadogan be asked :—

- (a) to inform the United Nations Commission that we will maintain existing sponsorship, procurement and shipping of food and fertiliser supplies for Palestine which will be required up to 15th May, the latest date for the termination of the Mandate;
- (b) to inform the United Nations Commission that we will accept no direct responsibility for sponsorship, procurement and shipment of supplies required subsequently;
- (c) If the United Nations Commission request us to continue *as agents* procurement and shipment of food supplies, to refer to the Foreign Secretary's undertaking in the House of Commons on 12th December to render assistance to smooth out the transition, and to state that he must seek instructions, but to give no indication that we should be prepared to act as agents in this matter for any considerable period.

R. S. C.

*Treasury Chambers, S.W. 1,  
21st January, 1948.*

NOTE.—During the period between the appointment of the United Nations Commission and the termination of the Mandate, the Mandatory Power shall, except in respect of ordinary operations, consult with the Commission on any measure which it may contemplate involving the liquidation, disposal or encumbering of the assets of the Palestine Government, such as the accumulated Treasury surplus, the proceeds of Government bond issues, State lands or any other assets.

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*22nd January, 1948*

## FINANCIAL AND ECONOMIC QUESTIONS ARISING FROM THE WITHDRAWAL OF BRITISH AUTHORITY FROM PALESTINE

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Consolidated Refineries Limited. Approximately 2 million tons per annum of crude oil are now derived from this pipeline and 1 million tons each are shipped on British Companies' account from Tripoli and the Persian Gulf. It is hoped that the refining capacity at Haifa will be increased to produce from 7-9 million tons per annum by 1951, using the increased quantities of crude oil which should flow through the new pipeline now under construction.

6. The crude oil produced by the Iraq Petroleum Company is owned as to  $47\frac{1}{2}$  per cent. by British interests, as to  $23\frac{3}{4}$  per cent. by United States interests, as to  $23\frac{3}{4}$  per cent. by French interests, and as to 5 per cent. by a Mr. Gulbenkian. The Consolidated Refineries Limited are 100 per cent. British-owned.

7. The Iraq Petroleum Company and Consolidated Refineries Limited operate in Palestine under agreements with the Palestine Government due to expire in January 2001 and October 2003, respectively. In the United Nations Plan of Partition with Economic Union, Chapter 3, paragraph 3 (d) stated "Commercial concessions granted in respect of any part of Palestine before such adoption of the resolution by the General Assembly shall continue to be valid according to their terms, unless modified by agreement between the concession-holder and the State." The operation of the two companies should be protected by this article. The Iraq Petroleum Company have, however, a number of other agreements with the Palestine Government and Municipalities involving such considerations as mining rights, water projects, occupation of land, &c., which they would also wish to have safeguarded.

8. Because of the shortage of refining capacity throughout the sterling area and the rest of the world, the loss of the refinery at Haifa, or any attempt by the local government to restrict or direct export of petroleum products, or to interfere with imports of machinery, raw materials and crude products, essential both for normal requirements and maintenance of the refinery and pipelines and for expansion schemes, would have a most serious effect on the oil situation in the sterling area. Palestine and other neighbouring States draw their requirements of petroleum products from the refinery at Haifa and interference with the production or the products would, therefore, also have serious repercussion on those States. It would also seem to be against the interests of a Jewish successor Government in Palestine to take any action which would close Haifa refinery or restrict its activities, since this would lose for them an important source of revenue. Current annual expenditure by the British Oil Companies on loading dues, taxes, rents, wages, purchase of local materials and capital costs is estimated at about £5.25 million, and will be considerably higher when the expansion schemes have been completed and are operating.

9. At the moment the Refinery Company never owns the oil that it processes. It is remunerated on a fee basis and, as its sole shareholders are Companies that distribute the refined product, this fee may be less than would be charged by an outside concern. There is a possibility that the successor Government will be attracted by the opportunity of earning hard currency or gold presented by the existence of the refinery on its territory. Assuming that it respects the terms of the convention signed by the Mandatory Government in 1933, it cannot secure an appreciable return from the Company by way of taxation or port dues certainly until 1958 and probably not before the beginning of next century.

10. The successor Government may, however, attempt to secure an exchange profit either by—

- (a) insisting that the Refinery Company increases its processing fee to the full "economic" level and receives some part of the fee in gold or hard currency, or
- (b) more likely—laying down that all oil refined in Palestine must be sold for dollars.

Whether the successor Government will really give way to this temptation is unknown. If it did and succeeded the result would be extremely serious. The production of the Haifa refinery will increase during the next few years. If the oil companies have their way the British share alone will be  $7\frac{1}{2}$  million tons in 1950 and the difference in cost between the crude oil intake (for which presumably we would charge Palestine dollars in the circumstances envisaged) and refined oil output is of the order of £20 million at present prices.

11. Alternative 10 (a) therefore would mean our paying a fair proportion of this amount in gold; alternative 10 (b) would mean paying in dollars for that proportion of the Haifa output that was consumed in the sterling area.

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12. On the other hand, we are not without weapons with which to oppose such an attempt by the successor Government, *e.g.*, (a) we could refuse to proceed with the expansion of the refinery and the pipeline across Palestine which this involves, (b) refineries wear out pretty quickly and we could in the last resort (and at considerable expense to ourselves) transfer the refinery elsewhere, (c) dollar-invoicing is a game at which two can play and Palestine must take an appreciable part of her imports from the sterling area

13. For the moment it is difficult to see what can be done to ward off the prospect of the successor Government adopting such tactics. We certainly do not want to delay the expansion of Haifa longer than we are already likely to be forced to delay it by shortages of plant and material. On the other hand if, during the discussions, there is any hint that we are going to be faced with this sort of demand, His Majesty's Government should have early warning in order to reconsider the policy in regard to the refinery.

13A. It should be mentioned that the Iraq Government have expressed anxiety about the future of the Haifa refineries in view of their interest in the exports of Iraqi oil through that port.

13B. The effect of the establishment of a Jewish State on the existing and projected pipelines also requires careful examination. Arab States may well make difficulties over way-leaves of pipelines whose terminals are to be in the Jewish State. American pipeline construction may be difficult in Arab countries for some time to come.

#### Recommendations

14. It is recommended that Sir Alexander Cadogan should seek to establish with the United Nations Commission—

- (a) that all agreements between the Palestine Government and the Iraq Petroleum Company Limited and Consolidated Oil Refineries Limited respectively should be treated in accordance with Chapter 3, paragraph 3 (d), of the Plan of Partition with Economic Union, *i.e.*, that they shall continue to be valid according to their terms, unless modified by agreement between the concession-holder and the State;
- (b) that the British oil companies in Palestine should be free to export petroleum products to such destinations as they choose.

It is further recommended that Sir A. Cadogan should be asked—

- (c) to give early warning of any hint that the Commission may be considering dollar-invoicing the products of the Consolidated Refineries Limited.

#### Assets and Liabilities

##### *Fixed Assets in Palestine of His Majesty's Government*

15. Details of the value of the fixed assets constructed by the Service Departments in Palestine have been requested from the Middle East but this information has not yet been received. It is believed that the bulk of the assets are sited on requisitioned, hired and expropriated land. Many of these assets are of military value only but others would have considerable civilian-use value. The Service Departments are endeavouring to sell the assets which have been constructed on freehold land, but sales of assets of major political significance will only be made with the concurrence of the Palestine Government.

16. In the absence of the report referred to, only very tentative estimates of the value of the assets can be made, but the salvage value of assets constructed on hired, requisitioned or expropriated land is believed to be of the order of £2 million and the value to a willing purchaser would probably be substantially higher.

17. It is the view of the Palestine Government that if titles remain in their present form, *i.e.*, vested in the High Commissioner, there might be a difficulty in asserting the rights of the Service Departments of His Majesty's Government in this land after the termination of the Mandate when the office of the High Commissioner will presumably cease to exist. This land was vested originally in the High Commissioner on behalf of the Service Departments concerned, presumably to avoid any question arising of challenge under Article 5 of the Mandate, but it seems clear that the provisions of this article were not

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intended to preclude ordinary acquisition of private rights to land, *cf.* leases granted to foreign consulates and the British Army in Palestine.

18. It is the conclusion of the High Commissioner that the safest and most effective means of protecting the interests of His Majesty's Government in this land is to vest it directly in the Service Department concerned, either by a special ordinance or otherwise, and he has so informed the Military Authorities concerned in Palestine. It is their policy to endeavour to sell off all immovable assets with the least possible delay but, both because this may mean considerable loss and because in the time and with the staff available it may not prove possible to dispose of all property, some such method of protecting His Majesty's Government's interests appears necessary.

#### *Movable Assets*

19. The only known movable assets of His Majesty's Government remaining in Palestine after the termination of the Mandate will be military stores. A detailed note on these is given in Appendix B.

#### **Liabilities of the Palestine Government**

20. The appointment of a United Nations Commission as an administering authority for the whole of Palestine to take over the administration of the country following the termination of the Mandate involves the question of the negotiations to be carried out for the surrender of the assets of the Palestine Government and the terms upon which such a surrender should be made. In such negotiations it is essential that clear distinction is drawn between the assets of the Palestine Government and the assets of His Majesty's Government.

21. The Commission will, no doubt, be guided by the financial clauses of the Plan of Partition with Economic Union and these present some difficulties as to the definition of the obligations of the Palestine Government, the means which would be available to honour the obligations taken over by the Commission and the handling and distribution of governmental movable and immovable assets.

22. The assets of the Palestine Government might be summarised as follows:—

- (i) General revenue balances.
- (ii) Funds for specific purposes.
- (iii) Funds in respect of Public Debt.
- (iv) Government lands, buildings and stores.
- (v) Internal loans.
- (vi) Trust funds.
- (vii) Palestine 3 per cent. Defence Bonds and Palestine Savings Certificates.

23. The liabilities of the Palestine Government might be summarised as follows:—

- (i) Budgetary expenditure until termination of the Mandate.
- (ii) Public Debt.
- (iii) Specific obligations in respect of the right of public servants, including pensions, compensations or gratuities.
- (iv) Specific obligations under Palestine Ordinances.
- (v) Contingent liabilities.

24. These assets and liabilities are individually dealt with in Appendix B, except for the special problems arising on the Public Debt of Palestine and on Pension obligations, which are explained in the following paragraphs.

25. *The Public Debt of Palestine* consists of:—

- (i) £P.3,600,000—3 per cent. Guaranteed Loan, 1962-67;
- (ii) War Loan (Bearer Bonds), 1st, 2nd, 3rd and 4th issues, totalling £5,791,960.

The 3 per cent. Guaranteed Loan, less stock redemptions, at 31st March, 1947, stood at £P.3,150,000. This stock is guaranteed as to principal and interest by the Treasury under an Act of Parliament of the United Kingdom of Great Britain and Northern Ireland entitled "The Finance Act, 1939" (24 and 25 George V, cap. 32).

26. The operation of the Joint Economic Board to be set up under the Partition Plan makes provision for the service of the outstanding public debt of the

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Palestine Government. An agreement with the United Nations Commission safeguarding the servicing of the 3 per cent. Guaranteed Stock and War Loans (Bearer Bonds) should be a major objective of our financial negotiations.

#### *Pension Obligations*

27. Palestine Government have pension obligations under Palestine Ordinances as well as obligations in connection with the Palestine Provident Fund, Widows' and Orphans' Pensions Fund. In addition, the Palestine Government have not yet finalised their views as to the payment of compensation and gratuities to public servants and to the police on termination of the Mandate. Preliminary views of the Government of Palestine have indicated that their proposals may involve a sum of £P.18 million on the basis of "funding" pensions. However, it may be possible to arrive at some more economical method of meeting the charge. The position of expatriate officers of the Palestine Civil Service will need careful consideration. In the main it is hoped that the majority will be found other employment in the Colonial Service but there may be a small residue who cannot be so placed for some while after the termination of the Mandate.

#### *Qualifications on Acceptance of Financial Obligation*

28. 3 (a) of Chapter 3 of the Report of the United Nations *Ad Hoc* Committee on the Palestinian Question imposes a qualification as to the financial obligations which the State shall respect and fulfil. While saying that all financial obligations of whatever nature assumed on behalf of Palestine by the Mandatory Power during the exercise of the Mandate shall be respected and fulfilled, there is the important overriding condition that such obligations would be those recognised by the State. The United Kingdom delegation has reserved His Majesty's Government's position regarding any clauses in the Plan, and we must resist this qualifying condition to the extent of making the unqualified acceptance of the obligations of the Palestine Government a condition for the surrender of its assets.

#### *Means of Meeting Obligation*

29. Then there is the question of the means which the Commission will employ to meet certain charges arising out of the obligations taken over. As to the servicing of the public debt and the cost of superannuation benefits now being paid or falling due in future, the Partition Plan envisages these charges as being met from the common revenue of the Joint Economic Board. This presupposes that this Board will be set up and function satisfactorily; but this would appear to be a doubtful proposition in present circumstances. Should there be difficulties in setting up (a) the respective States, which seems probable in the case of the Arab State, and (b) the Economic Union, the Commission may not be in a position to implement its agreement to discharge the liabilities taken over unless there are safeguards against such a contingency.

#### *Recommendations*

30. It is recommended that in his negotiations with the United Nations Commission Sir Alexander Cadogan should ensure—

- (a) that a clear distinction is drawn between Palestine Government assets and assets of His Majesty's Government,
- (b) that the vesting of land directly in the Service Departments is duly acknowledged as full and clear title of His Majesty's Government departments with freedom to dispose of such assets as may seem desirable should they not be disposed of before the termination of the Mandate.

It is further recommended that Sir Alexander Cadogan should be asked—

- (c) to discuss with the Commission plans for the safe custody of such stores left behind by the military, and for their movement to the Haifa enclave for subsequent evacuation, possibly an appreciable time after 1st August.

It is further recommended that Sir Alexander Cadogan should be asked to establish the following principles:—

- (d) That the surrender of Palestine Government assets is conditioned on the unqualified acceptance of the liabilities incurred by the Palestine Government (there is every indication that the liabilities will exceed the liquid assets).

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- (2) All accountable German assets in Palestine are included by the Inter-Allied Reparation Agency in determining the total of Category A assets for reparation purposes, and all German assets in Palestine as defined for I.A.R.A. purposes are reparations.

*German External Assets under the Control of the Custodian of Enemy Property for Palestine*

33. The total estimated value of these assets is £8.8 million, and there are additional assets of perhaps twice this value belonging to Germans interned in Palestine and in Australia, and other Germans resident in Germany. These latter assets, or the proceeds of their sale, may be released to such of the owners who may not be within the legal (Custodian) definition of "enemy." Such released assets would not be accountable to the Inter-Allied Reparation Agency. After adjustments made under I.A.R.A. accounting rules for external assets the final sum hitherto considered as likely to be included ultimately in Category A in respect of German enemy assets in Palestine is £4 million. The amount of this at present in liquid form is probably less than £1 million.

*Steps taken by His Majesty's Government to secure control and transfer of German enemy assets in Palestine*

34. The High Commissioner for Palestine has been asked to instruct the Custodian of Enemy Property for Palestine not to vest further any German property which may have to be released (e.g., internees' property). He has also been asked to consider measures whereby as much of the immovable property as possible can be liquidated. The High Commissioner has also been asked to advise on the possibility of transfer to the United Kingdom of all liquid assets now available and which become available as the proceeds of sale of assets. Arrangements have been made for an immediate visit to Palestine by a Treasury representative to investigate the position on the spot and see what steps it would be practicable and wise to take in the direction of liquidation of assets and transfer of the proceeds.

*Possible Financial Effects*

35. In the first estimate of German assets within the United Kingdom jurisdiction which has been made to the Inter-Allied Reparation Agency, the sum of approximately £2 million has been included on account of these assets. The provisions of the Paris Act enable us to adjust this estimate later according to the facts. The fact that we are obliged to account for assets, the value of which we know for certain, e.g., because they have been liquidated, but are unable in fact to secure the transfer to the United Kingdom Exchequer, would mean that our participation in other assets under Category A of Part I of the Final Act, would be reduced. One effect of this might be to reduce our share of Swiss francs derived from the disposal of German assets in Switzerland. This reduction would not be the equivalent of the value of German assets in Palestine which we had included in the I.A.R.A. return, but would definitely reduce our share to an extent which at the moment cannot be forecast.

*Jewish Claims for reparation payments*

36. The Jewish Agency have hitherto claimed that, as compensation for the sufferings of Jewry under the Nazis, Palestinian Jews should receive compensation out of reparation payments over and above that already provided for in the Final Act. This provision (Article 8, Part I) allocates \$25 million from German assets in neutral countries, and non-monetary gold in Germany and other assets in Germany, making an overall total of approximately \$30 million. Jewish propaganda will no doubt claim that morally the whole of German assets in Palestine should be earmarked for this purpose. The Jewish Agency has already been informed that contributions from reparations for the rehabilitation of non-repatriable victims of German action are governed by the Final Act of Paris. Any contribution to Palestine over and above the agreed Palestine share of reparation can only be made at the expense of His Majesty's Government, whose responsibility it is to account for all these assets, the non-receipt of which would adversely affect the reparations receipts of the United Kingdom Exchequer. As these assets are reparations the Inter-Allied Reparation Agency has a responsibility to see that they are included in the total pool of Category A assets.

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### Conclusions

37. His Majesty's Government's interests would best be served financially if:—

- (a) All liquid assets were transferred out of Palestine and within the jurisdiction of the United Kingdom, before the mandate was relinquished.
- (b) As much property as possible was henceforth liquidated before the mandate ended (provided that it is transferred as in (a) above).
- (c) In the arrangements to be made with the United Nations Commission, we secured the inclusion of a statement describing the international responsibilities as regards German assets in Palestine which remain unliquidated, and therefore not transferred as in (a) and (b) above, and also secured from the United Nations Commission a recognition of these responsibilities which, so far as it was able, the Commission would accept as dischargeable to the Inter-Allied Reparation Agency through His Majesty's Government. (A primary responsibility is that these assets are so held or disposed of as "to preclude their return to German ownership or control"—Article 6A, Part I of the Final Act of Paris.)

It is clearly recognised that to take the lines described in (a) and (b) may, even with the most skilful presentation of the facts as to the position of these assets, and their setting within the field of international reparations relations, be the occasion for bitter accusations that we are robbing the Palestinians of German assets which belong to them. This is a matter which lies very close to the hearts of Jewish refugees from Germany in Palestine. There are several good answers which, in a reasonable atmosphere, should completely rebut such accusations, viz.:—

- (1) Provision has already been made out of reparation assets for suffering Jewry. The provision in the Final Act (Article 8) is relatively generous. It amounts to about \$30 million which is equal to above 5 per cent. of all Category A assets or to the combined shares of Norway and the Netherlands.
- (2) These assets should form part of the whole pool of German external assets and would be applied by the United Kingdom to meet the claims of all the colonies, some of whom were more hardly hit than Palestine, e.g., Malta.
- (3) Palestine, under the arrangements contemplated for dealing with the German assets under United Kingdom jurisdiction, will receive her just proportion of the United Kingdom's share of 28 per cent.

38. A decision upon action designed to accomplish (a) and (b), and as to (c), turns very largely on what is found, particularly as regards (a), in Palestine by the Treasury representative to be practicable, and, so far as can be judged from the Palestine end, least likely to plunge the whole question into a hopeless atmosphere of unreason and prejudice.

It is recommended that a final decision on implementing the policy which would best serve His Majesty's Government's interests financially, described in (a), (b) and (c) of paragraph 37, should await the report of the Treasury representative now in Palestine, it being understood that so far as can be determined at present any alternative to the policies advocated in (a) and (b) must definitely result in serious loss to the Exchequer some of which will be in terms of lower receipts of hard currency (Swiss francs from German assets in Switzerland).

### Palestine's Membership of International Economic and Financial Bodies

39. The Official Committee on Palestine are reviewing and making recommendations on all international obligations (including, e.g., membership of international, economic and financial bodies) assumed by the United Kingdom on Palestine's behalf.

### Safeguards for Commercial Interests

40. We need to safeguard our commercial position in Palestine in the interim period between the laying down of the Mandate and the negotiation of long-term agreements with the successor States. Our object should be to negotiate an arrangement with the Commission which will safeguard our position, not only while the Commission is actually administering the territory, but for an interval thereafter sufficient to give us time to negotiate commercial treaties with the successor States. It follows that we shall have to try to persuade the Commission to place some restraints on the economic freedom of the new States for the first year or two of their existence.

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### Treatment of Goods

41. The protocol of provisional application of the General Agreement on tariffs and trade does not extend to Palestine until notice has been given in accordance with paragraph 2 of that protocol. It is undoubtedly in our interests that Palestine should apply the rules of the agreement on tariffs and trade. It is for consideration whether His Majesty's Government should, while they are still responsible for the administration of Palestine, give notice in accordance with paragraph 2 of the protocol to extend the application of the General Agreement on tariffs and trade to Palestine. The Palestine Government are being consulted on this point, but, subject to their views, it is proposed that we should give notice of the provisional application. If this proposal is approved, Sir Alexander Cadogan should presumably first inform the Commission that this is what His Majesty's Government propose to do, since Palestine will obtain the tariff concessions negotiated at Geneva only if she in her turn makes her concessions effective, and seeks the agreement of the Commission to the adoption of this course, and to their carrying forward the application when they take over. The Commission should also be asked to ensure that in handing over to the successor States, if and when established, a similar undertaking valid for a period of at least two years should be obtained from them.

42. We can support our request by reference to the fact that, under the terms of the Mandate, Palestine was bound to grant equality of treatment to the goods, nationals, &c., of all members of the League of Nations (and by a separate agreement to the United States) and that this had to be given even if one of the countries concerned discriminated against Palestine. The line our representative should therefore take with the Commission is that Palestine has always followed a policy of non-discrimination in commercial matters and it is hoped that the policy will be continued under the Commission's régime, and further, that for the first two years of their existence the successor States shall be under an obligation to grant most-favoured-nation treatment to all members of the United Nations that accord the same to them.

The above general rule of non-discrimination would not be applied in such a way as to prevent Palestine making special customs agreements with neighbouring territories, *cf.* the existing preferential tariff arrangements with Syria and Lebanon.

### Treatment of Nationals, Companies, Shipping and Civil Aviation

43. When the Mandate is terminated we shall have no treaty rights in Palestine for our nationals, their businesses or our shipping and civil aviation. In the long term these can only satisfactorily be safeguarded by the negotiation of a treaty of establishment and navigation with the successor States. It will not be practicable to negotiate detailed provisions with the U.N.O. Commission, and to cover the position in the interim period we shall have to rely on a *modus vivendi* expressed in fairly general terms.

### Recommendations

44. It is recommended that Sir A. Cadogan should be asked—

- (a) on the treatment of goods, to discuss the question with the Commission on the lines proposed in paragraph 41;
- (b) on the treatment of nationals, companies and shipping, to secure an undertaking from the Commission that, while they are responsible for administering the territory, they will grant to United Nations nationals, including juridical persons, national and most-favoured-nation treatment in all matters pertaining to commerce, industry, shipping, civil aviation and other forms of business activity within Palestine, subject to the reciprocal grant of similar treatment in like matters by the United Nations concerned to Palestinian nationals. This undertaking would be understood to be subject to any exceptions customarily included in commercial treaties. Similarly the provisions with respect to reciprocity granted by each of the United Nations would be understood to be subject to the exceptions customarily included in the commercial treaties concluded by that State. The Commission should also be asked to ensure that, in handing over to the successor States, if and when established, a similar undertaking valid for a period of at least two years is obtained from them.

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### Exports from Palestine which are Essential to the United Kingdom

45. The main exports from Palestine of interest to the United Kingdom (other than petroleum products covered in paragraphs 5-14) are:—

- (a) Potash;
- (b) Food-stuffs, mainly citrus fruit and fruit products.

Separate notes on these are in Appendix C.

### Recommendations

46. It is recommended that Sir A. Cadogan be asked to request the United Nations Commission to facilitate the exports of citrus and potash to the United Kingdom.

### Procurement of Food-stuffs and Fertilisers

#### Food-stuffs

47. The Ministry of Food has hitherto dealt with the programming, sponsoring and procurement of food supplies for Palestine.

48. Requirements of bread grains and rice for part of 1948 have already been considered by the I.E.F.C. The Food Mission in Washington have been asked within the last week to submit to the I.E.F.C. requirements of oils and fats for Palestine, as part of general Middle East requirements.

49. Certain quantities of the allocated foods for 1948 have been or are in course of being procured. Some small balances of Palestinian 1947 requirements yet remain to be shipped.

#### Fertilisers

50. The United Kingdom sponsors the requirements of the Colonies and Mandated Territories with the International Emergency Food Council in Washington. The only fertiliser now under international allocation by that body is nitrogen and the allocation of this fertiliser to Palestine for the fertiliser season ending 30th June, 1948, is 2,667 metric tons of N. Of this total, the United Kingdom is to supply 1,267 tons, Belgium 1,100 tons and Norway 300 tons. United Kingdom deliveries are made through I.C.I. (Levant), but procurement of supplies within the Belgian and Norwegian allocations is made by the Palestine Government, with such guidance as may be required from His Majesty's Government. It has been the practice in the past for the Palestine Government to use the I.C.I. (Levant) for procuring all supplies of nitrogen, but recently Norway has appeared to be unwilling to continue this arrangement.

### Recommendations

51. It is recommended that Sir A. Cadogan be asked—

- (a) to inform the United Nations Commission that we will maintain existing sponsorship, procurement and shipping of food and fertiliser supplies for Palestine which will be required up to 15th May, the latest date for the termination of the Mandate;
- (b) to inform the United Nations Commission that we will accept no direct responsibility for sponsorship, procurement and shipment of supplies required subsequently;
- (c) if the United Nations Commission request us to continue *as agents* procurement and shipment of food supplies, to refer to the Foreign Secretary's undertaking in the House of Commons on 12th December to render assistance to smooth out the transition, and to state that he must seek instructions, but to give no indication that we should be prepared to act as agents in this matter for any considerable period.

52. Approval is sought for the following recommendations:—

- (a) Oil interests (paragraph 14).
- (b) Assets and liabilities (paragraph 30).
- (c) German assets (paragraph 38).
- (d) Safeguards for commercial interests (paragraph 44).
- (e) Exports from Palestine (paragraph 46).
- (f) Procurement of food-stuffs and fertilisers (paragraph 51).

22nd January, 1948.

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## APPENDIX A

## STORES IN PALESTINE

There are large quantities of military stores (Naval, Army and Air Force) in Palestine. A considerable proportion of these stores constitutes part of the approved maintenance and reserve stores for the Middle East garrisons and the Army generally, and with the existing and prospective stringency of financial provision for the Services the necessary replacement of such stores, if they had to be abandoned in Palestine, would be extremely difficult. It is essential that every effort should be made to withdraw all military stores, which we desire to retain, from Palestine as part of the general evacuation of that country by the Forces.

The evacuation of military stores from Palestine has already begun and is to proceed *pari passu* with the general evacuation of the Forces through the four stages of Plan A, as recently approved by the Defence Committee and endorsed by the Cabinet. The latest review of the situation suggests that, provided conditions permit the planned orderly evacuation, it should be possible to withdraw the bulk of the stores required elsewhere. There will, however, be an additional quantity of some 150,000 tons of useful stores which would have been required had the Forces remained in Palestine. Immediate replacements will not be required elsewhere, and, since it is not possible to evacuate them, these stores will remain for local disposal by the Ministry of Supply. There is a considerable risk that we may lose even their disposal value. This is not a contingency which can be lightly accepted, and the Cabinet have agreed that special measures, including the appointment of an officer charged with this particular task, should be taken to facilitate first—

- (a) the collection and evacuation of military stores from Palestine;
- (b) the disposal of surplus stores in Palestine.

There are two developments in the Palestine evacuation, the possible effects of which upon the stores question Sir Alexander Cadogan should be asked to bear in mind in negotiation with the United Nations authorities. First, it seems possible—and the Commanders-in-Chief, Middle East, think it is probable—that a considerable quantity of stores will in any case have to be left behind at various stages of the planned evacuation of troops. It is proposed that plans should be discussed by Sir Alexander Cadogan with a view to the safe custody of such stores left behind by the military, and (a) to their movement to the Haifa enclave for subsequent evacuation, or (b) to their disposal, possibly an appreciable time after 1st August. Secondly, deterioration of conditions in Palestine as between the Jewish and Arab communities, the premature arrival of the United Nations Commission, or other factors, may enforce some telescoping of the military evacuation plan now approved in favour of a more rapid withdrawal upon the Haifa enclave. The Commanders-in-Chief, Middle East, foresee that any such contingency would probably mean a heavy additional abandonment of stores along the line of evacuation. In this event, too, it would be important that such provision as may be possible in the circumstances then existing should be made for (a) subsequent concentration and movement of the stores to be evacuated into the Haifa enclave, and their safe custody there pending shipment overseas; and (b) the subsequent disposal of the stores declared for disposal. If a hurried evacuation were forced upon us through the United Nations Commission insisting upon what we regard as a premature arrival in Palestine, then there would be a powerful argument for insistence upon all possible facilities being provided for the evacuation of military stores which thus had to be temporarily abandoned.

It is relevant also that the evacuation of military stores, on present plans, will be slowed down by the policy of His Majesty's Government and the Palestine Administration not to interfere with the citrus trade, which is so important to Palestine's economy; this consideration likewise affords ground for seeking some *quid pro quo* as regards facilities for subsequent evacuation of stores.

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## APPENDIX B

## NOTES ON ASSETS AND LIABILITIES

1. *General Revenue Balances.*—These are estimated as likely to be of the order of £2 million at 31st March, 1948. This allows for some slight recession in revenue returns offset by savings in expenditure through inability to carry out the budgetary programme. This figure might well turn into a deficit if revenues slumped to an extreme degree. No forecast is possible as to the likely position of revenue balances at 15th May; given favourable conditions it may be possible to hold the position as at 31st March.

2. The funds for specific purposes include the following:—

- (i) Palestine Provident Fund.
- (ii) Palestine Widows' and Orphans' Pensions Fund.
- (iii) Palestine Post Office Savings Bank.
- (iv) Public Service (Supplementary Grants Board).
- (v) Renewals Funds—Ports, Posts and Telegraphs, Water Supply, &c.

The foregoing, with the exception of (v), must be utilised to meet the obligations of the funds they relate to. In the case of (v) these funds (which amount to approximately £734,000) could be treated either as an asset of Government to be handed over or utilised for appropriate expenditure on the services for which they were created.

3. In addition to the sinking fund arrangements for the servicing of the 3 per cent. Guaranteed Stock (dealt with in paragraph 12, the sum of £3,048,707, being the unspent balance of the various issues of War Loans (Bearer Bonds) has been invested by the Crown Agents in the interests of the bondholders. A further £500,000, which had been earmarked for a specific purpose, is also being invested.

4. Government land and buildings are proposed to be dealt with under the Partition Plan by allocating immovable assets to the Government of the territory in which they are situated. This may well present difficulties in the case of the proposed Arab State; but in our financial negotiations we should hand them over to the United Nations Commission as a Palestine Government asset and the Commission would be responsible for their subsequent disposal.

5. *Internal Loans*, these consist in the main of loans to various municipalities, to Citrus growers, local councils, village communities and agricultural loans. The foregoing have been made from Palestine general revenues at interest on varying terms of repayment. In addition, loans have been made to Municipalities, Railways and Ports from the proceeds of the War Loans (Bearer Bonds). These loans are assets of the Palestine Government for disposal as may be agreed. At 31st March, 1946, the loans from revenue totalled £P.5,245,206 while from War Loans (Bearer Bonds) loans of £P.1,282,000 had been made.

6. *Trust funds* consist of Museum of Archaeology Endowment Fund, Russian State Fund and Smith (B. C.) Trust Fund, which must be negotiated with the Commission in the light of the respective Trust deeds.

7. *Palestine 3 per cent. Defence Bonds and Palestine Savings Certificates* were inaugurated under a Palestine War Loan Ordinance of 1941 for the purpose of lending the proceeds to His Majesty's Government to meet war expenditure. These bonds and certificates were issued on prescribed terms of redemption; in the case of the 3 per cent. Defence Bonds, seven years from the date of purchase, and in the case of saving certificates the normal ten-year period. Earlier repayment may be possible if this concession would secure satisfactory arrangements as to the servicing of the 3 per cent. Guaranteed stock, relieving His Majesty's Government of her guarantee on being given satisfactory indemnification as dealt with in paragraph 40.

8. *Budgetary expenditure* may well not be possible on many projects owing to labour and material difficulties; but the result is reflected in the estimated General Revenue balance given.

9. *Obligations under Palestine Ordinances.*—There may well be a number of obligations under Palestine ordinances which may need to be given adequate cover. These, in the main, deal with requisitioned lands and compensation payments and will require to be negotiated. The legal aspect generally in connection

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with Palestine Ordinances is being dealt with by the Colonial Office and it is mentioned here because certain financial obligations may arise for negotiation.

10. *Contingent liabilities.*—It is difficult at this stage to envisage what may be contingent liabilities; but there may well be items of stores and supplies which may not be brought to account on the termination of the Mandate. Such claims must obviously fall to be met from Palestine assets.

## APPENDIX C

### A.—PALESTINE POTASH

By a long-standing agreement with the Palestine Potash Company the whole output of potash is taken by His Majesty's Government on a cost-plus 12½ per cent. profit basis. This potash is used to meet in part the requirements of the United Kingdom, Dominions and Colonies, and the present arrangement continues the procedure approved by the International Emergency Food Council during the period when potash was subject to international allocation. Allocations of potash ceased on 30th June, 1947. The company, under a British and Palestinian Directorate, hold a concession for 75 years from 1934, granted by the High Commissioner on behalf of Palestine, and also by agreement with the King of Transjordan on behalf of that territory in which a part of the concession lies. Royalties are paid to Palestine and to Transjordan.

2. The potash from the concession area contains a high percentage of K<sub>2</sub>O and this high-quality fertiliser is indispensable to the food production of the United Kingdom and the Empire. Potash of this quality to replace any short-fall on Palestine supplies cannot be obtained from other sources and it is essential to ensure that the existing supply arrangements, which are favourable to the company and to His Majesty's Government, should be continued after the surrender of the Mandate. His Majesty's Government have supplied capital equipment and granted a loan to the company and it is largely due to the support given, and the assured market provided by His Majesty's Government, that the company have been able to continue in operation and build up a sound position.

3. Royalties under the terms of the concessions are paid to the Palestine Government and to the Transjordan Government. It is assumed that the Palestine Government's share of the royalties will be paid to the Commission on the termination of the Mandate.

4. There is, in fact, likely to be interference with potash production, since, it is understood, that the works of the company are located partly in the Arab and partly in the Jewish proposed States.

### B.—UNITED KINGDOM IMPORTS OF FOOD-STUFFS FROM PALESTINE

1. These comprise the following estimated quantities for 1948 :—

	Tons '000	£'000
(a) Citrus fruit 1947-48 crop ...	387	8,453
(b) Citrus fruit juices for soft drinks	2.1	376
(c) Concentrated orange juice (for Welfare Foods Scheme) ...	3.5	733
(d) Essential oils ...	165,000 (lb.)	100
(e) Wines (including sacramental wines) ...	...	207.5
		9,869.5

105,000 tons of the 1947-48 citrus fruit crop have been shipped, the balance remaining to be shipped up to April 1948.

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2. Imported citrus fruits and products from Palestine are a large source of United Kingdom supplies, amounting to not less than 75 per cent. of United Kingdom citrus fruit imports and to 50 per cent. of requirements for soft drinks and the welfare service.

3. Our citrus fruits are bought from individual shippers within the framework of an overall agreement with the Citrus Marketing Board. We should hope the Board would continue to function. If it did not, we should have to buy direct from the shippers. The season ends in April and begins again in the late autumn. The fruit juices are bought through London agents.

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FROM.

MR. J.G.S.BEITH.

Agreed with  
Mr Vallat &  
Mr Trandy on

RECEIVED IN  
DIVISION.  
JAN 10 1948  
10/2  
DISPATCHED

You may recall that at a meeting in your room on 4th February I promised to let you have our Legal Adviser's views on the desirability of appointing an interim custodian to administer German assets in Palestine on our behalf after 15th May.

Our legal advice on this point is that the decision will rest with the I.A.R.A. Assembly as to whether the U.K. is called upon to account for German assets which remain in Palestine after the termination of the Mandate. Whether we take any action to retain control over these assets or not we should be able to present some sort of case to the Assembly to justify the U.K. being excused from accounting for what the U.K. does not get. For example, we should be able to contend that, when Palestine ceases to be under the Mandate of the U.K., the German enemy assets there cease to be within the "jurisdiction" of the U.K. within the meaning of Part I, Article 6A of the Paris Reparation Agreement. We might then say that Article 6 no longer applies to these assets and therefore that the U.K. is not required to account for them. This argument might not be accepted by I.A.R.A. but it ought to be possible to raise a certain amount of sympathy if we do not in fact get any property.

It is not clear how the appointment of a custodian to hold the assets after the termination of the Mandate would affect the position. On the one hand, the I.A.R.A. powers might say that the U.K. had done all in its power to preserve the assets for reparation purposes/

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purposes and, having failed, had better grounds  
 for claiming excuse from accounting. On the  
 other hand they might say that, since the legal  
 title continued to be vested under an officer  
 responsible to the Government of the U.K., the  
 U.K. was still liable to account for the assets.  
 — (To our mind the last consideration is far  
 the more weighty and it seems to us that, from  
 a practical point of view, to maintain <sup>any kind of</sup> ~~effective~~  
 custody will inevitably involve us in  
 responsibility for accounting) <sup>in these circumstances</sup> ~~Moreover~~, as I  
 pointed out at the meeting, the Foreign Office  
 are strongly against <sup>retaining any</sup> ~~continuing~~ responsibility  
 for the assets after the termination of the  
 Mandate. The main object of our policy in  
 withdrawing from Palestine is to divest oursel-  
 ves of the serious political difficulties inher-  
 ent in the Mandate. To retain a custodian  
 would be contrary to this policy and might well  
 arouse political suspicions and opposition in  
 the U.S.S., if not in Palestine itself. Moreover,  
 a Custodian, while retaining a nominal title  
 and responsibilities, could not exercise any  
 effective control over the assets in Palestine.  
~~It therefore seems to us that from the practical point of view~~  
~~To our mind~~ the question of appointing a U.K.  
 Custodian in these circumstances does not arise.  
 I am sending copies of this letter to  
 Abbott and Gutch.

JB Feb. 18

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FOREIGN OFFICE, S.W.1.

21st February, 1948.

(B 2382/38/31)

You may recall that at a meeting in your room on 4th February I promised to let you have our Legal Adviser's views on the desirability of appointing an interim custodian to administer German assets in Palestine on our behalf after 15th May.

Our legal advice on this point is that the decision will rest with the I.A.E.A. Assembly as to whether the United Kingdom is called upon to account for German assets which remain in Palestine after the termination of the Mandate. Whether we take any action to retain control over these assets or not we should be able to present some sort of case to the Assembly to justify the United Kingdom being excused from accounting for what the United Kingdom does not get. For example, we should be able to contend that, when Palestine ceases to be under the Mandate of the United Kingdom, the German enemy assets there cease to be within the "jurisdiction" of the United Kingdom within the meaning of Part I, Article 6A of the Paris Reparation Agreement. We might then say that Article 6 no longer applies to these assets and therefore that the United Kingdom is not required to account for them. This argument might not be accepted by I.A.E.A. but it ought to be possible to raise a certain amount of sympathy if we do not in fact get any property.

It is not clear how the appointment of a custodian to hold the assets after the termination of the Mandate would affect the position. On the one

hand

D.H.F Rickett Esq.,  
Treasury.

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hand, the I.A.R.A. powers might say that the United Kingdom had done all in its power to preserve the assets for reparation purposes and, having failed, had better grounds for claiming excuse from accounting. On the other hand they might say that, since the legal title continued to be vested under an officer responsible to the Government of the United Kingdom, the United Kingdom was still liable to account for the assets. (To our mind the last consideration is far the more weighty and it seems to us that, from a practical point of view, to maintain any kind of custody will inevitably involve us in responsibility for accounting). In these circumstances, as I pointed out at the meeting, the Foreign Office are strongly against retaining any responsibility for the assets after the termination of the Mandate. The main object of our policy in withdrawing from Palestine is to divest ourselves of the serious political difficulties inherent in the Mandate. To retain a custodian would be contrary to this policy and might well arouse political suspicions and opposition in the United States, if not in Palestine itself. Moreover, a Custodian, while retaining a nominal title and responsibilities, could not exercise any effective control over the assets in Palestine. It therefore seems to us that from the practical point of view the question of appointing a United Kingdom Custodian does not arise.

I am sending copies of this letter to Abbott and Gutch.

(J.G.S. Beith)

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1948

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E 3014

5 MAR 1948

PALESTINE

62

Registry  
Number

FROM

No.

Dated

Received  
in Registry

E3014/38/31

80

forward

5 Mar

German Assets in Palestine.

P'tine tel 524 A of 11 Feb. 2. As a result of developments during last 48 days, it is now clear that there is no prospect of being able to carry out any liquidation of German assets before termination of mandate except for possible completion of Sarona deal. Reason for delay, why appreciation contained in P'tine tel 169 (E 1022/38/11) must now be reversed.

Last Paper.

2382

References.

(Print.)

(How disposed of.)

(Minutes.)

It is high time that the Colonial Office and Treasury put the Government of Palestine out of their misery on this particular subject. The Foreign Office view about the proposal to appoint a U.K. Custodian to hold German assets after May 15th will be found on E 2382 (see my letter to Mr. Rickett of the Treasury). I know that the Colonial Office are in agreement with this point of view and I do not think there can be any real doubt that the final answer to Palestine is that any unliquidated German assets must simply be abandoned when we lay down the Mandate. The reason for the delay in conveying this decision to the Government of Palestine seems to be that Mr. Abbott of the Treasury came back from his recent visit to Palestine with the idea of appointing a Custodian "to maintain continuity after our departure."

As regards paragraph 5 of this telegram, I understand that the Colonial Office have kept the Commonwealth Relations Office closely informed throughout. There are a number of Germans in Palestine who would be acceptable emigrants to Australia, provided they are allowed to take their money with them. For this reason, the Government of Australia have been interested in the release of this property.

E.R. Dept. *ap.*  
Commonwealth Liaison Dept. *12/3*

*D. S. Baird*

5th March, 1948

(Action  
completed.)

(Index.)

Next Paper.

3326

26513 F.O.P.

See

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Admiral's Palace tel ho 11 being April 6

EA Sept

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INWARD TELEGRAM

TO THE SECRETARY OF STATE FOR THE COLONIES

Cypher (O.T.P.)

E 3014

FROM PALESTINE (Gen. Sir A. Cunningham) 5 MAR 1948

D. 2nd March, 1948.

R. 2nd " " 20.50 hrs.

IMMEDIATE

No. 524A Secret.

Addressed to S. of S.

Repeated to UKDEL New York, BRIEF No. 547  
(Washington please pass).

Your telegram No. 359 of 28th January.

German Assets in Palestine.

As a result of developments during the last ten days, it is now clear that there is no prospect of being able to carry through any liquidation of German assets before the termination of the Mandate, except for possible completion of Sarona deal. Appreciation contained in my telegram No. 169 of 24th January and Dorman's letter to Gutch of 23rd February must now be revised in the light of the following.

(a) Deterioration in local security conditions during the month had slowed up work on preparation of advertisements for sales of properties. Eventually, Custodian's Office had to be partitioned and transferred. The Ben Yehuda Street outrage has marked a further decline and such conditions have inevitably been reflected in diminishing departmental output.

(b) Huliniski, a key officer in Custodian Disposals Section has been kidnapped and killed by Jewish terrorists.

(c) Land prices are likely to be so low that enemy subjects are now most reluctant partners in any sales and no doubt would induce Australian representative to voice strong protest. Jewish buyers could not visit many properties and only a low overall offer could be expected. This is borne out by experience in Military disposals.

(d) It is not likely that normal departmental activity will be possible after 15th April. There is, therefore, only six weeks in which to carry through vast land sales.

2. Advertisements for sales should shortly be ready in respect of larger settlements and approval of (corrupt group). This means offer could not be considered before early April. Experience in Sarona has shown that an immense amount of detailed work is involved even after main outlines of sales have been agreed. Whole process must also be expected to be slower in view of new attitude of Germans mentioned in paragraph (c) above.

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**RECEIVED IN C.B.**

4 MAR 1948

SENT TO DEPT.

5-MAR

6. Taking a realistic view, no hope can be held out of completing any sales at fair prices except Sarong. In this case, it is now most important to know whether His Majesty's Government intend either

(a) to rely solely on Commission for discharge of custodial responsibilities or

(b) to reinsure against Commission's failure by transferring title to U.K. Custodian. In the latter event, local department would have to be retained and it is even now late to complete the necessary arrangements.

4. It should be appreciated that this course has its own danger. Department has not now got proper control over assets and could not retain physical control through a disturbed period. Some loss of assets after legal title had been preserved must therefore be faced.

5. The Australian authorities should be advised of the new turn events have taken, particularly if it is decided to transfer to U.K. Custodian.

\* (Correction being obtained)

Copies sent to: 772

**Treasury**

94

52

## Trading with the

Enemy Dep't.

72 12 11

Foreign Office

33

Mr. Wolfe.  
Mr. Rickett.  
Mr. H.R. Apperley.

Sir H. Gregory.  
Mr. D. Carter.  
Mr. Trevelyan.  
Mr. Beith.

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# INWARD TELEGRAM

TO THE SECRETARY OF STATE FOR THE COLONIES

Cypher (O.T.P.)

3014/38/31

12 MAR 1948

FROM PALESTINE (Gen. Sir A. Cunningham)

D. 9th March, 1948.

R. 9th

18.55 hrs.

## IMPORTANT

No. 584 Secret.

Your telegram No. 881.

German assets in Palestine.

Specific enquiries are being made in settlements and final answer will depend on replies. Meanwhile you may wish to know that provisional general impression is that majority of German internees will (repeat will) wish to be sent to Australia, even if their property cannot be liquidated.

Copies sent to:-

Treasury

-Mr. Wolfe.

-Mr. Rickett.

-Mr. H.R. Apperley.

Trading with the Enemy Dept.

-Sir H. Gregory.

-Mr. D. Carter.

Foreign Office

-Mr. Trevelyan.

-Mr. Beith.

Commonwealth Relations Office

-Mr. Gouldborn.

-Mr. Allen.

PUBLIC RECORD OFFICE

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**OUTWARD TELEGRAM**

FROM THE SECRETARY OF STATE FOR THE COLONIES

75872/159/17/48 Secret.

Cypher (O.T.P.)

30/4 / 15 / 24  
10 MAR 1948

TO PALESTINE (Gen. Sir A. Cunningham) INDEXED  
Sent 6th March, 1948. 11.00 hrs.

REPLY URGENTLY REQUIRED

No. 881 Secret.

Your telegram No. 524A.

German assets in Palestine.

I hope to address you shortly on general question.

If property of German internees is not liquidated will internees themselves wish to be sent to Australia?

Copies sent to:-

Treasury

"

"

Trading with the Enemy Dept.

Foreign Office

Commonwealth Relations

"

"

"

- Mr. Wolfe.

- Mr. Rickett.

- Mr. H. R. Apperley.

- Sir H. Gregory.

- Mr. D. Carter.

- Mr. Trevelyan.

- Mr. Beith.

- Mr. Gouldborne.

- Mr. Allen.

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# OUTWARD TELEGRAM

FROM THE SECRETARY OF STATE FOR THE COLONIES

18261/48 Secret  
Cypher (C.T.P.)

E 3014 / 28 / 31

TO PALESTINE (Gen. Sir A. Cunningham)

Sent 13th March, 1948. 19.00 hrs.

IMMEDIATE

INDEXED

No. 971

Addressed to High Commissioner Palestine.  
Repeated to UKDEL New York, BRIEF No. 92. for  
Trafford Smith.  
" " Washington, BRIEF No. 52.

## German Assets in Palestine

Your telegram 5244, secret. After carefully weighing all the considerations involved, and bearing in mind that our main object in withdrawing from Palestine is to divest ourselves of the serious political difficulties inherent in the Mandate, it has been decided that apart from certain practical objections, there can be no question of the transfer of the Custodian's title to the U.K. Custodian.

2. The responsibility for continuance of custodianship pending the reinstatement of some fresh regime in Palestine following termination of the Mandate will consequently devolve upon the United Nations Commission, who are being advised of the situation which will develop on the termination of the Mandate in respect of (a) German assets in Palestine (b) all other assets in Palestine over which the Custodian either exercises control or for which he has responsibility.

3. It is clear from Paragraph 4 of your telegram that even if a long range control of title could in some way be secured by a transfer of title to the U.K. Custodian, little purpose would be served by this in view of the intervening loss of control over assets to which you refer.

4. A copy of the full report which is being made to the United Nations Commission setting out the position which, as we see it, will obtain when we lay down our responsibility for Custodianship of Enemy property in Palestine is being sent to you. This report makes it clear that with the ending of our mandate our responsibility for all Custodian matters in Palestine will also come to an end; that custodianship for enemy property in Palestine includes a number of international obligations, some dischargeable through the United Kingdom Government, e.g. for German enemy assets accountable to I.A.R.A.; that these responsibilities will devolve upon the United Nations Commission in the first instance, should it be responsible for the administration of Palestine when we leave, and thereafter upon any successor state or states and that it will be incumbent on the United Nations Commission to ensure that these responsibilities are

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5. A draft Order-in-Council to cover the transfer to the U.K. Custodian of the liquid proceeds of German assets in Palestine accountable to I.A.R.A. is being prepared and will be forwarded to you as soon as possible.

6. Custodian's Office Staff. I shall be grateful to be informed of any estimate you can give of the members of the Custodian's staff who would, if the offer was to be made, be prepared to continue in the service of the United Nations Commission after the termination of the mandate. Response to recent circular issued to Palestinian staff at Commission's request may provide the necessary data.

(Copies sent to Foreign Office for transmission to New York and Washington)

Treasury	-	Mr. Wolfe
"	-	Mr. Rickert
"	-	Mr. H. R. Apperley
Trading with the Enemy Dept.	-	Sir H. H. Gregory
" " " " "	-	Mr. D. Carter
Foreign Office	-	Mr. Trevelyan
" "	-	Mr. Baith
Commonwealth Relations Office	-	Mr. Goulborn
" " " "	-	Mr. Allen

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10 MAR 1948

CONFIDENTIAL



SAVING.

7. Clear.

SF/216/43

67

From the High Commissioner for Palestine.

To the Secretary of State for the Colonies.

Date: 6th April 1948.

No. 114. Saving. PRIORITY. SECRET.

Your telegram No. 971 SECRET.

Custodian's German assets in Palestine.

A review of the liquidation policy in the light of the most recent developments in the situation here has only served to confirm the conclusion given in paragraph 3 of my telegram no. 524 Secret. Revised instructions are accordingly being issued to the Custodian of Enemy Property along the following lines:

I. LIQUIDATION OF GERMAN ASSETS: this must now be confined to the sale of Sarona lands for the following reasons:

- (i) in the time available it is very unlikely that any other property for which His Majesty's Government is accountable to I.A.R.A. could be sold at a satisfactory price.
- (ii) following on the American suggestion that the Partition plan be reviewed by the United Nations the Germans have changed their attitude and many of them are now anxious to stay and hold on to their property in its present immovable form.
- (iii) the strength of Arab opposition to the sale to Jews of German lands other than the Sarona lands has also been made apparent.
- (iv) the Australian Government has made it plain in their telegram No. 909 that one of the conditions for acceptance of the Templars in Australia would be release of their assets. Even if satisfactory offers were forthcoming and were accepted, in prevailing conditions transfer and release could not be completed before May 15th.

II. RELEASE OF ENEMY SUBJECT PROPERTY: as soon as the Sarona sales are through, and the Custodian has apportioned the proceeds between the various individual and communal accounts, it is proposed to release all assets other than those coming under Category A of the I.A.R.A. Accounting Rules. German enemy subjects and communal bodies will then be free to dispose of their assets as they think fit within the limits of the Exchange Control Regulations.

III. ECCLESIASTICAL PROPERTY will be freed from Custodian control by divesting and by the issue of the necessary licences as indicated in paragraph 7(ii) of the directive to the Custodian enclosed with my telegram no. 48 Saving Secret of 12th February.

2. I should be glad to know whether the United Nations Commission have accepted the responsibilities which will devolve upon them as explained in paragraph 2 of your telegram no. 971 Secret of the 12th March. If so, it is suggested that they should give urgent consideration to the question of appointments to the department of the Custodian. I am advised that although the office of Custodian will continue automatically the present staff, unless re-employed will cease to enjoy office after the termination of the Mandate. Of the present staff the following have signified



SAVING.

68

From the High Commissioner for Palestine.

To the Secretary of State for the Colonies.

Date...

No. ... Saving.

- 2 -

to the advance party of the United Nations Secretariat here  
their willingness to serve under the United Nations Palestine  
Commission :

Mr. M. J. FLANAGAN, - the present Custodian  
Mr. V. P. LRYR, - Assistant Custodian  
Mr. A. BLUM, - Assistant Custodian (Legal)  
Mr. A. A. TIRA, - Chief Clerk,

together with all the Jewish staff numbering 43 in the following  
grades :

Supervisors - 1  
Legal Assistants 3  
Inspectors Grade I - 1  
Inspectors Grade II - 3  
Clerks Grade I - 7  
Clerks Grade II - 6  
Clerks Grade III - 12  
and 2 messengers.

10 Arabs are prepared to serve. (This answers the question raised  
in paragraph 6 of your telegram under reference.

371 0620



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18	<b>E</b>	<b>E 3777</b> 69
<b>1948</b>	<b>PALESTINE</b>	<b>23 MAR 1948</b>

Registry Number } <b>E3777/38/31</b> <b>FROM</b> Mr. Abbott Treasury <b>No.</b> <b>Dated</b> O.F. 85/27/1 to Mr. Beith <b>Received</b> 20th Mar in Registry } 23rd "	<u>German, and other Assets in Palestine.</u>  Encloses draft of report which he proposes should be the basis for a memorandum to be presented by United Kingdom delegation to the Palestine Commission setting out the position in regard to (1) German assets in Palestine and (2) all other assets in Palestine which have come under the control of the Custodian of enemy property in Palestine, and will remain there when the mandate ends.
---	--

<b>Last Paper.</b> 3564	(Minutes.)  It is unfortunately very difficult either for Eastern Department or E.R. Dept. to be represented at the meeting on March 24 to which we have been invited. There is a meeting of the Official Committee on Palestine at the same hour and E.R. Dept. have various committees.  As a matter of fact I do not think that the F.O. have much to contribute to this further meeting and I doubt whether the meeting is very necessary. I would propose to inform Mr. Abbott that we are in agreement with his memorandum and repeating the opinion which we have often expressed that the sooner we make a communication on this subject to the United Nations the better. I see no objection to the undertakings asked for under paragraph 17, subject of course to any drafting amendments which may be required if and when the United Nations Commission throws in its hand, which it now seems very likely to do. In that event we should still wish to make a communication of this kind to the United Nations and should presumably do so through the Secretary General, who would then pass it on to whatever section of the United Nations is by then concerned with Palestine.  JB E. R. Dept. U.N. Pol. Dept. first
<b>References.</b>	23rd March, 1948.
(Print.)	
(How disposed of.)	

(Action completed.) <i>[Signature]</i>	(Index) <i>[Signature]</i>
<b>Next Paper.</b>  <b>E 3827</b>	

26513 F.O.P.

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NB Meeting was not held. We await a slightly amended version of the paper from Mr Abbott  
 Bu. Mr. 27 Apr. 1948  
 JB Mar 24



HMS.

Tel. No.: Whitehall 1234.



Your Reference .....

Treasury Reference O.F. 85/27/1



TREASURY CHAMBERS,  
GREAT GEORGE STREET,  
LONDON, S.W.1.

entirely

E

Dear Beith,

20th March, 1948.

I enclose a draft of a ~~report which I have~~ prepared, which I propose should be the basis for a memorandum to be presented by our Delegation at Lake Success to the United Nations Commission on Palestine setting out the position as we see it in regard to (i) German assets in Palestine and (ii) all other assets in Palestine which have come under the control of the Custodian of Enemy Property in Palestine, and will remain there when the Mandate ends.

While we have been all along principally concerned with the question of German assets in Palestine accountable to I.A.R.A., I feel that we should lay before the United Nations Commission the position which will obtain when our administration in Palestine ends, and the Custodian of Enemy Property ceases to be, as regards all Custodian held assets. Not only are the assets other than German assets accountable to I.A.R.A. of considerable value, but there are in relation to some of them international obligations to which the attention of the United Nations Commission should be drawn.

It seemed to me that we ought to make it quite plain to the United Nations Commission that we are in fact transferring the liquid German assets for which we have to account to I.A.R.A., and I have done this in paragraph 8. I feel that we must come right out into the open on this point at Lake Success.

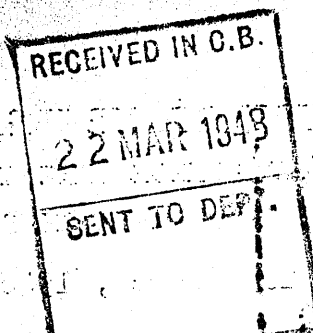
I would also draw your particular attention to the last paragraph, 16, where I have tried to set out the case for assurances and undertakings from the United Nations Commission. I do not know whether you, or any of the others to whom I am copying this, feel we can go any further. But it seems to me unlikely that we shall be successful in drawing the United Nations Commission to accept any kind of demand for assurances and an

J.G.S. Beith, Esq.,  
Foreign Office.

/undertaking

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undertaking and the chief purpose of the whole of this document is, in my mind, to be found in its future value as clear evidence that we went on record on this subject and that we cannot be held accountable for assets about which the United Nations Commission itself found that it could do nothing effective. In despatching this to our Delegation at Lake Success our instructions should make clear that this document is to be an open record to which, if need be, we can point in future.

We should like to discuss this document as soon as possible and I should like to know from you and the others to whom I am copying this whether they could meet here on Wednesday, 24th March at 3 p.m. in Rickett's room.

I have copied this to Gutch and Kelvin Stark, Colonial Office, Sir Henry Gregory, Administration of Enemy Property Department, and Trevelyan.

Yours sincerely,

*H. Att*

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71

Memorandum as to International and other obligations involved

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2. Under the Trading with the Enemy Ordinance No.36 of 1939 of Palestine, the High Commissioner appointed a Custodian of enemy property in Palestine with a view to preventing the payment of money to enemies and of preserving enemy property in contemplation of arrangements to be made at the conclusion of peace. This custodian has control over enemy property in Palestine.

3. "Enemy property" over which the Custodian still has control falls into the following main categories:-

- (a) Property held in connection with states with whom His Majesty is still at war i.e. Germany and Japan.
- (b) Property held in connection with states with whom His Majesty has concluded treaties of peace e.g. Italy, Bulgaria, Rumania, Hungary, Finland.
- (c) Property held in connection with territory formerly occupied by the enemy e.g. France, Holland, Belgium, Norway, Czechoslovakia.
- (d) Other property releasable to owners as not accountable as reparations.

1



value, and it may well be found eventually that the foregoing figures understate the true value. (There are in addition other assets, particularly ecclesiastical property and property belonging to enemy subjects. Most of the ecclesiastical property is expected to be released from custodian control before the termination of the mandate.)

#### I. GERMAN ENEMY ASSETS IN PALESTINE

5. There are international obligations to be fulfilled (a) as to disposition of these assets and (b) as to accounting for their value. These obligations, which at the moment rest upon H.M. Government, ~~will, should~~ <sup>automatically</sup> pass to the authority or authorities having jurisdiction in Palestine when the United Kingdom mandate is relinquished. These obligations arise as follows:-

#### THE GENERAL BACKGROUND

6. By the decision of the Berlin Conference of July/August, 1945, it was decided that, "the reparation claims of the United States, the United Kingdom and other countries to reparations shall be met ..... and from appropriate German external assets". By the provisions of Article 6 of Part I of the Final Act of the Paris Conference on Reparation, "each signatory Government shall, under such procedures as it may choose, hold or dispose of German assets within its jurisdiction in manners designed to preclude their return to German ownership or control and shall charge against its German reparation share such assets". Article 2 of Part IV of the Final Act states that "the signature of each contracting Government shall be deemed to mean that the effect of the present Agreement extends ..... to territories under its protection or suzerainty or over which it at present exercises a mandate". Under Article IF of the Final Act of the Paris Conference on Reparation, the Inter-Allied Reparation Agency must charge the reparation account of each Signatory Government for the German assets within that Government's jurisdiction, and each Signatory Government is required to render a return of the value of such assets as defined under Article 6 of Part I of the Agreement. His Majesty's Government signed the Paris Agreement on the 21st December, 1945, when it exercised a mandate over Palestine. Under the Final Act of Paris the share to be allocated to the United Kingdom (including all areas under its jurisdiction) of the total of German external assets, known as Category A, which are found to be available, is 28%. This means in effect that the United Kingdom is entitled to 28% of the total of all German assets in all the eighteen countries signatory to the Final Act of Paris, which includes the United Kingdom, plus any other external assets, e.g. those made available in Neutral Countries. The division of this 28% as between the United Kingdom and all the Colonies including Palestine, is a matter for arrangement between the United Kingdom Government and the Colonial Governments concerned. [Certain broad principles of agreement as to division have already been reached where- under the Colonies and Palestine will each receive a proportion of the total United Kingdom receipts from reparations (including external assets) corresponding to the proportion of war damage sustained].

7. The position of German assets in Palestine under the international arrangements described above, and H.M. Government's responsibility in regard thereto, is thus:-

(1) While these assets are within H.M. jurisdiction:-

(i) H.M. Government is required to see that German enemy assets in Palestine are so dealt with as to preclude their return to German ownership or control;

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- (ii) H.M. Government must ensure that the value of them is included in the United Kingdom returns to the Inter-Allied Reparation Agency;
- (iii) the Inter-Allied Reparation Agency is required to charge H.M. Government's share with the value of these German assets in Palestine;
- (2) In determining the total of Category A assets for reparation purposes the Inter-Allied Reparation Agency includes all accountable German assets in Palestine.
- (3) All German assets in Palestine defined as accountable by the Inter-Allied Reparation Agency are reparations.

8. Had it been possible to liquidate the whole of German assets in Palestine before the termination of the mandate the proceeds could have been transferred to the United Kingdom, and fully accounted for to the Inter-Allied Reparation Agency, and adjustment eventually affected with Palestine to whom transfer would have been made of her share of the Colonial portion of the United Kingdom's Category A share of 28%. But this has not been possible and German assets accountable to the Inter-Allied Reparation Agency of considerable value will remain unliquidated when United Kingdom jurisdiction in Palestine ends. The account for these to the Inter-Allied Reparation Agency has to be made and H.M. Government seek an assurance from the United Nations Commission that this responsibility is recognised as one which the United Nations Commission should take steps to ensure is discharged by it, or any successor Government(s) in Palestine through H.M. Government. H.M. Government would, for its part, be prepared to give an assurance that adjustment in respect of Palestine's share of the 28% of Category A reparations would be duly effected. In the meantime such liquid proceeds of German assets in Palestine as are available for transfer when the mandate ends will be transferred.

The total value of German assets in Palestine, including liquidated proceeds, accountable as reparations is estimated at £P4-5 million. Most of this will remain in Palestine when the mandate ends.

9. Japanese assets in Palestine. The value and extent of these is negligible. They will, however, be required to be kept in custodianship pending a decision as to their disposal.

## II. EX-ENEMY SATELLITE PROPERTY, E.G. ITALY, ROUMANIA, BULGARIA, HUNGARY AND FINLAND

10. The Treaties of Peace concluded with Italy, Roumania, Bulgaria and Hungary all contain a similar provision, (articles 79, 27, 25 and 29 respectively), giving the right to the Allied and associated Powers to seize property of these ex-enemy nationals to meet their claims, other than claims fully satisfied under other articles of the Treaties. Property or the proceeds thereof in excess of such claims has to be returned.

11. The total value of assets under this category is estimated at £P1.1 million.

12. An agreement has been made between the United Kingdom and Italy as to discharge of claims other than those covered by the Peace Treaty in return for release of the assets seizable under Article 79. This is now extended to Palestine. The agreement will not however be fulfilled when the U.K. mandate ends.

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13. Under these Peace Treaties there will thus be certain international rights and obligations resting upon any future administration of Palestine in respect of the property mentioned.

### III. ALLIED PROPERTY

14. There is in Palestine property <sup>of a total value of about £2 million</sup> which has come under the control of the Custodian by reason of the owners being resident in or carrying on business in Allied territory during its occupation by the enemy. ~~of a total value of about £2 million.~~ Most of this property is due to be released under arrangements made between H.M. Government and the Allied Governments under agreements which have been extended to Palestine. Although every effort is being made to make the maximum release of this property before the U.K. mandate ends there will still then remain a considerable amount of valuable property for which custodian arrangements ought to continue until these arrangements are fully carried out.

15. There is in Palestine some further Allied property in relation to which no agreement has yet been made by H.M. Government with the Allied Government concerned, e.g. Poland, Yugoslavia and China. The total value of all this property is estimated at £400,000 and the most important of these items is Polish property which amounts to approximately £200,000 in value. All of this is likely to be still in custodianship when the mandate ends.

### IV. OTHER PROPERTY RELEASABLE TO OWNERS

16. Included in the Germany enemy assets held by the Custodian is a considerable amount of property belonging to German or former German nationals. This property is not accountable to the Inter-Allied Reparation Agency if the owners do not return to Germany and reside there. None of the owners are expected to take up residence in Germany. Some are already in Australia and have acquired British nationality as Australians. Some of the property of this category, which consists almost entirely of land, has been sold and the proceeds made available to the owners. In their provisions for administration of Palestine when the United Kingdom mandate ends the United Nations Commission is asked to include provision for continuance of the practice <sup>based on equity and international practice,</sup> of release to the persons entitled of assets of this kind which are not required to be accounted for as reparations under the provisions of the Final Act of Paris.

### V. UNDERTAKING AS TO CUSTODIAN HELD PROPERTY WHEN MANDATE ENDS

17. H.M. Government ask:-

- (i) for an assurance from the United Nations Commission that it recognises the responsibilities in respect of property under the control of the Palestine Custodian of Enemy Property, as described above, particularly those which have to be fulfilled, through H.M. Government, towards the Inter-Allied Reparation Agency; and
- (ii) for an undertaking from the United Nations Commission that, in any instrument for which the United Nations is responsible under which transfer of Government of Palestine is effected, there will be included suitable provisions requiring a successor Government to recognise the obligations and responsibilities as described and that those dischargeable towards the Inter-Allied Reparation Agency through H.M. Government will be so discharged.

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RECEIVED IN C.B.  
25 MAR 1949  
SENT TO DEF.

undertaking and the chief purpose of the whole of this document is, in my mind, to be found in its future value as clear evidence that we want an record on this subject and that we cannot be held accountable for errors about which the United Nations Commission itself found that it could do nothing effective. In despatching this to our Delegation at Lake Success our instructions should make clear that this document is to be an open record to which, if need be, we can point in future.

We should like to discuss this document as soon as possible and I should like to know from you and the others to whom I am copying this whether they could meet here on Wednesday, 24th March at 1 p.m. in Elliott's room.

I have copied this to Gatch and Kelvin Stark, Colonial Office, Sir Henry Gregory, Administration of Enemy Property Department, and Trevelyan.

Yours sincerely,

J. E. ABBOTT

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74

Draft memorandum for United Nations Commission for Palestine

GERMAN ENEMY PROPERTY, AND OTHER  
ASSETS UNDER THE CONTROL OF THE PALESTINE CUSTODIAN

Memorandum as to International and other obligations involved

1. It is essential to bring to the notice of the United Nations Commission the nature and extent of the responsibilities and obligations which are borne by the present administration in Palestine in respect of property which has come under the control of the Palestine Custodian of Enemy Property by reason of the exercise of the powers contained in Trading with the Enemy legislation in Palestine. These responsibilities and obligations are of a continuing character and carry with them certain international commitments. It is accordingly necessary that the arrangements for the future administration of Palestine on the termination of the mandate should include provisions to ensure recognition and acceptance by any successor state or states of these responsibilities and obligations.

NATURE AND EXTENT OF THE PRESENT CONTROL OVER  
PROPERTY IN PALESTINE EXERCISED BY THE CUSTODIAN

2. Under the Trading with the Enemy Ordinance No. 36 of 1939 of Palestine, the High Commissioner appointed a Custodian of enemy property in Palestine with a view to preventing the payment of money to enemies and of preserving enemy property in contemplation of arrangements to be made at the conclusion of peace. This custodian has control over enemy property in Palestine.

Enemy property under this Ordinance includes *inter alia* the property of states at war with His Majesty, of persons resident in any area under the sovereignty of or in occupation of a power with whom His Majesty is at war, of business controlled by or incorporated in or under the laws of enemies.

3. "Enemy property" over which the Custodian still has control falls into the following main categories:-

- (a) Property held in connection with states with whom His Majesty is still at war i.e. Germany and Japan.
- (b) Property held in connection with states with whom His Majesty has concluded treaties of peace e.g. Italy, Bulgaria, Rumania, Hungary, Finland.
- (c) Property held in connection with territory formerly occupied by the enemy e.g. France, Holland, Belgium, Norway, Czechoslovakia.
- (d) Other property releasable to owners as not accountable as reparations.

4. The assets falling under the above three headings, (a), (b) and (c) consist primarily of immoveable property (mostly land) having a total value of something like £10 million to £11 million. Reliable estimates of values of property in Palestine at the present time, particularly of land, are impossible. But there is no doubt that the property involved with custodianship is very considerable in extent and

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value, and it may well be found eventually that the foregoing figures understate the true value. (There are in addition other assets, particularly ecclesiastical property and property belonging to enemy subjects. Most of the ecclesiastical property is expected to be released from custodian control before the termination of the mandate.)

#### I. GERMAN ENEMY ASSETS IN PALESTINE

5. There are international obligations to be fulfilled (a) as to disposition of these assets and (b) as to accounting for their value. These obligations, which at the moment rest upon H.M. Government, ~~will~~ *shall* ~~automatically~~ pass to the authority or authorities having jurisdiction in Palestine when the United Kingdom mandate is relinquished. These obligations arise as follows:-

#### THE GENERAL BACKGROUND

6. By the decision of the Berlin Conference of July/August, 1945, it was decided that, "the reparation claims of the United States, the United Kingdom and other countries to reparations shall be met ..... and from appropriate German external assets". By the provisions of Article 6 of Part I of the Final Act of the Paris Conference on Reparation, "each signatory Government shall, under such procedures as it may choose, hold or dispose of German assets within its jurisdiction in manners designed to preclude their return to German ownership or control and shall charge against its German reparation share such assets". Article 2 of Part IV of the Final Act states that "the signature of each contracting Government shall be deemed to mean that the effect of the present Agreement extends ..... to territories under its protection or suzerainty or over which it at present exercises a mandate". Under Article IV of the Final Act of the Paris Conference on Reparation, the Inter-Allied Reparation Agency must charge the reparation account of each Signatory Government for the German assets within that Government's jurisdiction, and each Signatory Government is required to render a return of the value of such assets as defined under Article 6 of Part I of the Agreement. His Majesty's Government signed the Paris Agreement on the 21st December, 1945, when it exercised a mandate over Palestine. Under the Final Act of Paris the share to be allocated to the United Kingdom (including all areas under its jurisdiction) of the total of German external assets, known as Category A, which are found to be available, is 28%. This means in effect that the United Kingdom is entitled to 28% of the total of all German assets in all the eighteen countries signatory to the Final Act of Paris, which includes the United Kingdom, plus any other external assets, e.g. those made available in Neutral Countries. The division of this 28% as between the United Kingdom and all the Colonies including Palestine, is a matter for arrangement between the United Kingdom Government and the Colonial Governments concerned. [Certain broad principles of agreement as to division have already been reached where- under the Colonies and Palestine will each receive a proportion of the total United Kingdom receipts from reparations (including external assets) corresponding to the proportion of war damage sustained].

7. The position of German assets in Palestine under the international arrangements described above, and H.M. Government's responsibility in regard thereto, is thus:-

(1) While these assets are within H.M. jurisdiction:-

- (i) H.M. Government is required to see that German enemy assets in Palestine are so dealt with as to preclude their return to German ownership or control;

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(ii) H.M. Government must ensure that the value of them is included in the United Kingdom returns to the Inter-Allied Reparation Agency;

(iii) the Inter-Allied Reparation Agency is required to charge H.M. Government's share with the value of these German assets in Palestine;

(2) In determining the total of Category A assets for reparation purposes the Inter-Allied Reparation Agency includes all accountable German assets in Palestine.

(3) All German assets in Palestine defined as accountable by the Inter-Allied Reparation Agency are reparations.

8. Had it been possible to liquidate the whole of German assets in Palestine before the termination of the mandate the proceeds could have been transferred to the United Kingdom, and fully accounted for to the Inter-Allied Reparation Agency, and adjustment eventually affected with Palestine to whom transfer would have been made of her share of the Colonial portion of the United Kingdom's Category A share of 28%. But this has not been possible and German assets accountable to the Inter-Allied Reparation Agency of considerable value will remain unliquidated when United Kingdom jurisdiction in Palestine ends. The account for these to the Inter-Allied Reparation agency has to be made and H.M. Government seek an assurance from the United Nations Commission that this responsibility is recognised as one which the United Nations Commission should take steps to ensure is discharged by it, or any successor Government(s) in Palestine through H.M. Government. H.M. Government would, for its part, be prepared to give an assurance that adjustment in respect of Palestine's share of the 28% of Category A reparations would be duly effected. In the meantime such liquid proceeds of German assets in Palestine as are available for transfer when the mandate ends will be transferred.

The total value of German assets in Palestine, including liquidated proceeds, accountable as reparations is estimated at £P4-5 million. Most of this will remain in Palestine when the mandate ends.

9. Japanese assets in Palestine. The value and extent of these is negligible. They will, however, be required to be kept in custodianship pending a decision as to their disposal.

II. EX-ENEMY SATELLITE PROPERTY, E.G.: ITALY, ROUMANIA, BULGARIA, HUNGARY AND FINLAND

10. The Treaties of Peace concluded with Italy, Roumania, Bulgaria and Hungary all contain a similar provision, (articles 79, 27, 25 and 29 respectively), giving the right to the Allied and associated Powers to seize property of these ex-enemy nationals to meet their claims, other than claims fully satisfied under other articles of the Treaties. Property or the proceeds thereof in excess of such claims has to be returned.

11. The total value of assets under this category is estimated at £P1.1 million.

12. An agreement has been made between the United Kingdom and Italy as to discharge of claims other than those covered by the Peace Treaty in return for release of the assets seizable under Article 79. This is now extended to Palestine. The agreement will not however be fulfilled when the U.K. mandate ends.



13. Under these Peace Treaties there will thus be certain international rights and obligations resting upon any future administration of Palestine in respect of the property mentioned.

### III. ALLIED PROPERTY

14. There is in Palestine property <sup>of a total value of about £12 million</sup> which has come under the control of the Custodian by reason of the owners being resident in or carrying on business in Allied territory during its occupation by the enemy. ~~of a total value of about £2 million.~~ Most of this property is due to be released under arrangements made between H.M. Government and the Allied Governments under agreements which have been extended to Palestine. Although every effort is being made to make the maximum release of this property before the U.K. mandate ends there will still then remain a considerable amount of valuable property for which custodian arrangements ought to continue until these arrangements are fully carried out.

15. There is in Palestine some further Allied property in relation to which no agreement has yet been made by H.M. Government with the Allied Government concerned, e.g. Poland, Yugoslavia and China. The total value of all this property is estimated at £400,000 and the most important of these items is Polish property which amounts to approximately £200,000 in value. All of this is likely to be still in custodianship when the mandate ends.

### IV. OTHER PROPERTY RELEASABLE TO OWNERS

16. Included in the Germany enemy assets held by the Custodian is a considerable amount of property belonging to German or former German nationals. This property is not accountable to the Inter-Allied Reparation Agency if the owners do not return to Germany and reside there. None of the owners are expected to take up residence in Germany. Some are already in Australia and have acquired British nationality as Australians. Some of the property of this category, which consists almost entirely of land, has been sold and the proceeds made available to the owners. In their provisions for administration of Palestine when the United Kingdom mandate ends the United Nations Commission is asked to include provision for continuance of the practice <sup>based on equity and international practice,</sup> of release to the persons entitled of assets of this kind which are not required to be accounted for as reparations under the provisions of the Final Act of Paris.

### V. UNDERTAKING AS TO CUSTODIAN HELD PROPERTY WHEN MANDATE ENDS

17. H.M. Government ask:-

- (i) for an assurance from the United Nations Commission that it recognises the responsibilities in respect of property under the control of the Palestine Custodian of Enemy Property, as described above, particularly those which have to be fulfilled, through H.M. Government, towards the Inter-Allied Reparation Agency; and
- (ii) for an undertaking from the United Nations Commission that, in any instrument for which the United Nations is responsible under which transfer of Government of Palestine is effected, there will be included suitable provisions requiring a successor Government to recognise the obligations and responsibilities as described and that those dischargeable towards the Inter-Allied Reparation Agency through H.M. Government will be so discharged.

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E 4508

76

1948

PALESTINE

12 APR 1948

Registry Number E4508/38/31

FROM

Colonial Office  
Communicated

Dated

Received in Registry } 12th April

Transfer of Liquid German Assets in Palestine.

Copy of letter from J. Gutch 75872/154/17/2/48 of 9th April to D. Carter, Trading with the enemy Department regarding the draft order in Council to provide for the transfer of liquid German assets from the Palestine custodian to the custodian for England. Encloses revised draft which Dale has prepared together with his notes on the provisions of the draft.

Last Paper

3827

References

(Minutes.)

Mr Evans }  
ER Secretary } first

H. J. Gutch  
Apr. 12

(Print)

(How disposed of)

App. J. Gutch  
from Mr Beth.  
April 22

(Action completed)

PP  
J. Gutch

(Index)

PP  
J. Gutch

Next Paper

4693

I have discussed Clause 7 of the draft Order in Council with Mr. Vallar. who agreed with me that it is not clear what "the termination of the war with Germany" has to do with according to the I. A. R. A. and, further, that the words "until the termination of the war with Germany" are themselves open to objection particularly in view of the present circumstances in Germany.

I spoke to Mr. Dale on the telephone about the points which I have indicated above. He said the phrase "until the termination of the war with Germany" was inserted at the request of the Custodian of Enemy Property, but that the Trading with the Enemy Acts are now themselves not entirely satisfactory with Clause 7. I understood from Mr. Dale that this clause is to be re-drafted, and that Mr. Dale himself feels that the words "until the

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Resumption of the war with Germany should  
be omitted in any future draft.

Mr. Dale also pointed out that Clauses  
8 & 9 of the draft Order in Council  
should have been in square brackets as they  
are still under consideration by the Colonial  
Office, and that in the second recital to  
the Preamble the words "set-out-Mini subsection"  
were a direction to the typist which should  
never have been included!

Joyce A. C. Gutteridge  
(GUTTERIDGE)

15/4

Draft. Miss Gutteridge agrees

By May 13

JB Apr. 20

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77  
 Mr. B. A. P. 27  
 Eastern Dept.

I spoke to Mr. Dale, Colonial  
 Office, on the telephone this  
 afternoon. He tells me  
 he is still waiting for the  
 views of the Treasury on Clause  
 7 of the draft Order in Council.  
 One hopes to be able to let  
 us have something definite by  
 next week.

To: Mr. A. C. Gutteridge  
 23/4

By: May 5

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J. G. S. Beith, Esq.

Foreign Office

E 4508

Colonial Office,  
Church House,

75372/154/17/2/48. 12 APR 1948 Great Smith Street,  
S.W.1.

9th April, 1948.

Dear Carter:

With reference to your letter of the 22nd March (Gen. 2383) and the subsequent discussion in Dale's room regarding the draft Order in Council to provide for the transfer of liquid German assets from the Palestine Custodian to the Custodian for England. I now enclose a revised draft which Dale has prepared together with his notes on the provisions of the draft. You will note that he has somewhat recast the proviso to clause 7 without, however, altering the sense of what was agreed at the meeting. In the meantime I have received your letter (Gen. 2383) of the 5th April informing me that Gregory concurred in the terms of the previous draft subject to the insertion of the words "who appear to them" in the proviso.

I shall be grateful to have your comments and those of Abbott to whom I am sending a copy of this letter and enclosures on the revised draft. Prima facie, Dale's revised wording - "to any person satisfying the Treasury that he is entitled thereto" - would appear to meet Gregory's point.

I am also sending a copy of this letter to Beith, Foreign Office, in case they may have any comments to offer on the terms of clause 7.

Yours sincerely,

D. CARTER, ESQ.,  
TRADING WITH THE ENEMY DEPARTMENT.

(J. Gutch)

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DRAFT ORDER IN COUNCIL

under

PALESTINE BILL.

79

WHEREAS under section one of the Palestine Act, 1948, all jurisdiction of His Majesty in Palestine will determine on the fifteenth day of May, 1948 (in that Act and in this Order referred to as the appointed day), and His Majesty's Government in the United Kingdom will on that day cease to be responsible for the government of Palestine;

AND WHEREAS by sub-section (4) of section three of the said Act it is provided that His Majesty may by Order in Council make provision - [set out this sub-section]:

NOW, THEREFORE etc.

Short title.

1. This Order may be cited as the Termination of Jurisdiction in Palestine (Transitional Provisions) Order in Council, 1948.

Interpretation.

2. (1) In this Order, unless the context otherwise requires -

"Crown Agents" means the persons for the time being the Crown Agents for the Colonies;

"fund" includes any securities in which money forming part of any fund is invested.

(2) A reference in this Order to an Ordinance is to an Ordinance enacted by the High Commissioner for Palestine, including any amendments thereto in force immediately before the appointed day.

Public Service  
(Supplementary  
Grants).

3. The fund held immediately before the appointed day by the Public Service (Supplementary Grants) Board constituted under the Public Service (Supplementary Grants) Ordinance, 1947 (including such part of the fund as is held by the Crown Agents on behalf of the Board) shall on the appointed day vest in the Crown

/Agents

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80

Museum of  
Archaeology  
Endowment Fund.

3% Guaranteed  
Stock.

Sinking funds  
in respect of  
Bearer Bonds.

Agents, and shall thereafter be transferred by them to such trustees, to be held on such trusts, as the Secretary of State shall direct.

4. The fund held immediately before the appointed day by the Crown Agents on behalf of the Government of Palestine known as the Museum of Archaeology Endowment Fund shall on the appointed day vest in the Crown Agents, and shall thereafter be transferred by them to such authority or person, and on such terms, as the Secretary of State may direct, to the end that the fund shall be applied for the purposes of a Museum of Archaeology in Palestine. Until the fund is so transferred, it may, if the Secretary of State shall so direct, be applied by the Crown Agents for the purposes aforesaid.

5. The sinking fund formed under the Palestine Loan Ordinance, 1942, and held immediately before the appointed day by the trustees nominated by the Treasury under the Ordinance, shall continue to be held by the trustees in trust for the repayment of the principal monies secured by the 3% Guaranteed Stock issued under the Ordinance; and the provisions of the Ordinance, and of the rules in force thereunder immediately before the appointed day, shall continue to apply as nearly as may be in relation to the loan raised and stock issued under the Ordinance, and to the sinking fund.

6. The sinking funds held immediately before the appointed day by the Crown Agents in trust for the Government of Palestine under any Ordinance providing for the issue of Bearer Bonds shall on the appointed day vest in the Crown Agents, and shall be held by them until the Secretary of State directs the transfer of the funds to some authority or authorities succeeding to the government of Palestine.

/7.

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Enemy Property.

7. The amount of..... (being monies in the hands of the Palestine Custodian of Enemy Property representing German enemy assets) shall on the appointed day be transferred to and vest in the Custodian of Enemy Property for England, appointed under section seven of the Trading with the Enemy Act, 1939 [and shall be held by him until the termination of the war with Germany, and shall thereafter be disposed of by him as the Treasury shall direct:]

provided that if at any time the Treasury is satisfied that under the Paris Agreement on Reparation His Majesty's Government in the United Kingdom is not liable to account to the Inter-Allied Reparation Agency for any sum included in the said monies, the Treasury may direct the Custodian of Enemy Property in England to pay such sum to any person satisfying the Treasury that he is entitled thereto.

L of 21<sup>st</sup> December 1945

[8. Add any other provisions required for dealing with specific funds e.g. property, in the hands of the Administrator-General. If there are many funds, they might be dealt with in a schedule.]

Other funds.

[9. Any fund not included in the foregoing provisions of this Order which immediately before the appointed day is held by the Government of Palestine, and all monies and securities forming part of the general assets of the Government of Palestine immediately before the appointed day (whether such fund, monies or securities are in Palestine or elsewhere) shall on the appointed day vest in the Crown Agents, and shall be applied by them towards the discharge of any obligations of the Government of Palestine outstanding on the appointed day, in accordance with any directions the Secretary of State may give; and any balance remaining after the

/discharge

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Enactments  
relating to  
superannuation.

discharge of such obligations shall be transferred by the Crown Agents to such authority or authorities succeeding to the government of Palestine as the Secretary of State shall direct].

10. For the purposes of the Pensions (Colonial Service) Act, 1887, the Superannuation Act, 1892, and the Pensions (Governors of Dominions etc.) Acts, 1911 to 1947, any person holding office in the service of the Government of Palestine immediately before the appointed day shall be deemed to continue in his office until either he is appointed to the service of the Crown elsewhere, or, if he is not so appointed, he retires or is removed from office.

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NOTES ON DRAFT ORDER IN COUNCIL

General.

The whole of this should be carefully examined by the authorities in Palestine.

Clauses 3 to 6 & 9 by the Crown Agents.

Clauses 5, 7 & 10 by the Treasury.

Clause 7 by the Custodian of Enemy Property here and by the Foreign Office.

Clause 10 by Pensions Branch.

This Order plunges deeply into matters of accounting and so forth, and, for example, reference to funds and securities (and the definition of "fund" in Clause 2) should be fully examined.

Clause 3.

I have vested this fund in the Crown Agents to begin with, since it will not be satisfactory to vest it in trustees named in the Order, even if we shall be ready to do so.

Clause 5.

My intention here is to provide generally for the continued application of the Palestine Loan Ordinance after the 15th May, so far as it is capable of being applied. This Clause will (with Clause 9) be enough to authorise the Crown Agents to pay dividends, etc., out of general Palestine assets.

Clause 8.

I leave this to the Palestine authorities to deal with in the light of the list supplied by the Crown Agents, and their own knowledge of other funds existing in Palestine.

Clause 9 is very much for consideration. It may be possible to dispense with a general mopping up clause of this kind.

/Clause 10.

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Clause 10.

This takes in all the Acts with which I think we need deal. (The Teachers (Superannuation) Act, 1925 is not included. If there are teachers in the service of the Government of Palestine now and they raise any problem of continuity of service under this Act, it will probably be more suitably dealt with later by amendment of the Scheme contained in the Order in Council of 1933 made under the Act).

A Circular will be sent to Colonial Governments asking them to legislate in similar terms to this clause.

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No. E 4508/38/31

JGSB

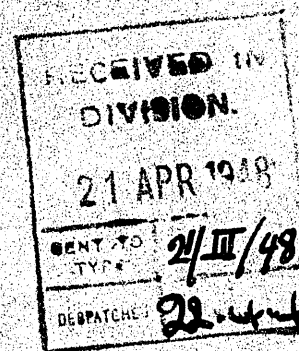
*Draft*  
LETTER

~~Top Secret~~  
~~Secret~~  
~~Confidential~~  
Restricted  
~~Open~~

Mr. John Gutch,  
Colonial Office.

(from Mr. Beith)

*Mr. Gutch  
23/4  
ale*



TO

85 24/12  
FOREIGN OFFICE, S.W.1.

21 April, 1948. 24/3.

OUT FILE

Dear Gutch,

Please refer to your letter  
75872/154/17/2/48 of April 9th to Carter  
about the draft Order-in-Council to provide  
for the transfer of liquid German assets from  
the Palestine Custodian to the Custodian  
for England.

I referred your letter to our Legal  
Advisers and they have been in touch, I  
understand, with Dale on certain points.  
They agreed ~~XXXX~~ on certain amendments of  
detail to be inserted.

I understand that your Legal Advisers  
will let us see a re-draft in due course.

(J. G. S. Beith)

*JB Apr. 20*

NOTHING TO BE WRITTEN IN THIS MARGIN.

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86

21st April 1948.

**RESTRICTED.**

Please refer to your letter 75372/154/17/2/48 of April 9th to Carter about the draft Order-in-Council to provide for the transfer of liquid German assets from the Palestine Custodian to the Custodian for England.

I understand that your Legal Advisers will let us see a re-draft in due course.

Yours sincerely  
John Beith.  
(J.G.S. Beith).

John Gutch, Esq.,  
Colonial Office.

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E 4693

87

1948

PALESTINE

15 APR 1948

Registry Number E4693/38/31

FROM

J.E. Abbott

No.

Treasury

OF. 85/26/1

Dated

to Mr. Beith

8th April

Received

15th "

in Registry

German and other Assets in Palestine.

Refers previous letter to Mr. Beith dated March 20th (E3777/38/31) which enclosed draft of memorandum to be presented to the Palestine Commission on German and other Assets in Palestine. Has now had comments from all people concerned, and encloses final version.

Last Paper

4508

(Minutes.)

JB Apr. 16

References

(Print)

(How disposed of)

Sgt. A. D. Cogan  
New York

N. 108.

encs (2)  
April 16

9. W. Jan.

enc (1)

NO 348.

April 16

1. T. Gutch. A.D.

Russell Edmunds Jcy

higher 895.

Abbott Jcy. arrival

(Action completed)

(Index)

J. C. M. 16/4

24/4

Next Paper

E5248

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CL

Tel. No.: Whitehall 1234.



Your Reference

OF. 85/26/1

Treasury Reference



TREASURY CHAMBERS,

GREAT GEORGE STREET,  
LONDON, S.W.1.

8th April, 1948. *88*

Dear Beith,

15 APR 1948

Referring to my letter to you of the 20th March, forwarding to you and Trevelyan, Gutch, Gregory and Kelvin Stark my draft of the memorandum to be presented to the United Nations Commission on Palestine on German Enemy Property in Palestine, I have now had comments from all concerned and now enclose a final version (six copies). This embodies all the ~~material~~ material comments and is now in the form in which it can be presented to the United Nations Commission.

Will you kindly let me know when this goes to Lake Success and send me a copy of your covering note? This should, I suggest, make the point that our main object, indeed, it is now our sole object, is to get on to public record that we have included this among all the other troublesome problems which have been brought to the notice of the United Nations Commission. I don't expect us to get any more German enemy assets transferred after we leave Palestine and this document will, if needed, be part of our defence to claims by I.A.R.A. to render account for what we've never had.

I have copied this to Trevelyan, Gutch, Gregory and Kelvin Stark.

Yours sincerely,

*J. E. Abbott*

J. E. ABBOTT

J. G. S. Beith, Esq.,  
Foreign Office.

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Tel. No.: Whitehall 1234.



Your Reference

OF. 85/26/1

Treasury Reference

E 693



TREASURY CHAMBERS,

GREAT GEORGE STREET,  
LONDON, S.W.1.

8th April, 1948.

Dear Beith,

15 APR 1948

Referring to my letter to you of the 20th March, forwarding to you and Trevelyan, Gutch, Gregory and Kelvin Stark my draft of the memorandum to be presented to the United Nations Commission on Palestine on German Enemy Property in Palestine, I have now had comments from all concerned and now enclose a final version (six copies). This embodies all the ~~material~~ material comments and is now in the form in which it can be presented to the United Nations Commission.

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*J. E. Abbott*

J. E. ABBOTT

J. G. S. Beith, Esq.,  
Foreign Office.

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89

Memorandum for United Nations Commission for Palestine

GERMAN ENEMY PROPERTY, AND  
OTHER ASSETS UNDER THE CONTROL OF THE PALESTINE  
CUSTODIAN

Memorandum as to International and other obligations involved

1. It is essential to bring to the notice of the United Nations Commission the nature and extent of the responsibilities and obligations which are borne by the present administration in Palestine in respect of property which has come under the control of the Palestine Custodian of Enemy Property by reason of the exercise of the powers contained in Trading with the Enemy legislation in Palestine. These responsibilities and obligations are of a continuing character and carry with them certain international commitments. It is accordingly necessary that the arrangements for the future administration of Palestine on the termination of the mandate should include provisions to ensure recognition and acceptance by any successor authority or authorities of these responsibilities and obligations.

NATURE AND EXTENT OF THE PRESENT CONTROL OVER  
PROPERTY IN PALESTINE EXERCISED BY THE CUSTODIAN

2. Under the Trading with the Enemy Ordinance No.36 of 1939 of Palestine, the High Commissioner appointed a Custodian of enemy property in Palestine with a view to preventing the payment of money to enemies and of preserving enemy property in contemplation of arrangements to be made at the conclusion of peace. This custodian has control over enemy property in Palestine.

Enemy property under this Ordinance includes inter alia the property of states at war with His Majesty, of persons resident in any area under the sovereignty of or in occupation of a power with whom His Majesty is at war, of businesses controlled by enemies or incorporated in or under the laws of enemies. The Custodian's control continues until arrangements made at the conclusion of peace are implemented.

3. "Enemy property" over which the Custodian still has control falls into the following main categories:-

- (a) Property held in connection with states with whom His Majesty is still at war, i.e. Germany and Japan.
- (b) Property held in connection with states with whom His Majesty has concluded treaties of peace e.g. Italy, Bulgaria, Rumania, Hungary, Finland.
- (c) Property held in connection with territory formerly occupied by the enemy e.g. France, Holland, Belgium, Norway, Czechoslovakia.
- (d) Other property releasable to owners as not accountable as reparations.

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4. The assets falling under the above three headings, (a), (b) and (c) consist primarily of immoveable property mostly of land. Estimates made by the Custodian of Enemy Property of these properties give a total of approximately £P20. But reliable estimates of values of property in Palestine at the present time, particularly of land, are impossible and while there is no doubt that the property under custodianship is very considerable in extent and value the foregoing figure should be treated with all reserve. (There are in addition other assets, particularly ecclesiastical property and property belonging to enemy subjects. Most of the ecclesiastical property is expected to be released from custodian control before the termination of the mandate.)

Because of the extraordinary difficulties in estimating values of property in Palestine, all the estimates quoted in this paper, which are derived from information furnished by the Custodian of Enemy Property, Palestine, should also be accepted with caution.

#### I. GERMAN ENEMY ASSETS IN PALESTINE

5. There are international obligations to be fulfilled (a) as to disposition of these assets and (b) as to accounting for their value. These obligations, which at the moment rest upon H.M. Government in the United Kingdom, should pass to the authority or authorities having jurisdiction in Palestine when the United Kingdom mandate is relinquished. These obligations arise as follows:-

#### THE GENERAL BACKGROUND

6. By the decision of the Berlin Conference of July/August, 1945, it was decided that, "the reparation claims of the United States, the United Kingdom and other countries to reparations shall be met ..... and from appropriate German external assets". By the provisions of Article 6 of Part I of the Final Act of the Paris Conference on Reparation, "Each Signatory Government shall, under such procedures as it may choose, hold or dispose of German assets within its jurisdiction in manners designed to preclude their return to German ownership or control and shall charge against its reparation share such assets". Article 2 of Part IV of the Final Act states that "The signature of each contracting Government shall be deemed to mean that the effect of the present Agreement extends ..... to territories under its protection or suzerainty or over which it at present exercises a mandate". Under Article II of Part I of the Final Act the Inter-Allied Reparation Agency must charge the reparation account of each Signatory Government for the German assets within that Government's jurisdiction, and each Signatory Government is required to render a return of the value of such assets as defined under Article 6 of Part I of the Agreement. His Majesty's Government in the United Kingdom signed the Paris Agreement on the 21st December, 1945, when it exercised a mandate over Palestine. Under the Final Act the share to be allocated to the United Kingdom (including all areas under its jurisdiction) of the total of German external assets, known as Category A, which are found to be available, is 28%. This means in effect that the United Kingdom is entitled to 28% of the total of all German assets in all countries signatory to the Final Act, which includes the United Kingdom, plus any other external assets, e.g. those made available in Neutral Countries. The division of this 28% as between the United Kingdom and all the Colonies including Palestine, is a matter for arrangement between the United Kingdom Government and the Colonial Governments concerned. Certain broad principles of division have already been tentatively decided upon, whereunder the Colonies and Palestine

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(1) While these assets are within H.M. jurisdiction:-

8. Had it been possible to liquidate the whole of German enemy assets in Palestine before the termination of the mandate the proceeds could have been transferred to the United Kingdom, and fully accounted for to the Inter-Allied Reparation Agency, and adjustment eventually effected with Palestine to whom transfer would have been made of her share of the Colonial portion of the United Kingdom's Category A share of 28%. But this has not been possible and German enemy assets accountable to the Inter-Allied Reparation Agency of considerable value will remain unliquidated when United Kingdom jurisdiction in Palestine ends. The account for these to the Inter-Allied Reparation Agency has to be made and H.M. Government seek an assurance from the United Nations Commission that this responsibility is recognised as one which the United Nations Commission should take steps to ensure is discharged by it, or any successor authority in Palestine, through H.M. Government. H.M. Government would, for its part, be prepared to give an assurance that adjustment in respect of Palestine's share of the 28% of Category A reparations would be duly effected. In the meantime such liquid proceeds of German enemy assets in Palestine as are available for transfer when the mandate ends will be transferred.

9. Japanese assets in Palestine. The value and extent of these is negligible. They will, however, be required to be kept in custodianship pending a decision as to their disposal.

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II. EX-ENEMY SATELLITE PROPERTY, E.G. ITALY, ROUMANIA, BULGARIA, HUNGARY AND FINLAND

10. The Treaties of Peace concluded with Italy, Roumania, Bulgaria and Hungary all contain a similar provision, (articles 79, 27, 25 and 29 respectively), giving the right to the Allied and associated Powers to seize property of these ex-enemy nationals to meet claims, other than claims fully satisfied under other articles of the Treaties. Property or the proceeds thereof in excess of such claims has to be returned.

11. The total value of assets under this category is estimated at £1.6 million.

12. An agreement has been made between the United Kingdom and Italy as to discharge of claims other than those covered by the Peace Treaty in return for release of the assets seizable under Article 79. This agreement has been extended to Palestine. The agreement will not however be fulfilled when the U.K. mandate ends.

13. Under these Peace Treaties there will thus be certain international rights and obligations resting upon any future administration of Palestine in respect of the property mentioned.

III. ALLIED PROPERTY

14. There is in Palestine property of a total value of about £13 million which has come under the control of the Custodian by reason of the owners being resident in or carrying on business in Allied territory during its occupation by the enemy. Property of a total estimated value of about £3.5 million is due to be released under arrangements made between H.M. Government and the Allied Governments under agreements which have been extended to Palestine. Although every effort is being made to make the maximum release of this property before the U.K. mandate ends there will still then remain a considerable amount of valuable property for which custodian arrangements ought to continue until these arrangements are fully carried out.

15. As to the balance of Allied property in Palestine, of an estimated value of £9.5, no agreement has yet been made by H.M. Government with the Allied Government concerned, e.g. Poland, Yugoslavia and China. All of this property will be unreleased from custodianship when the mandate ends.

IV. OTHER PROPERTY RELEASABLE TO OWNERS

16. Included in the Germany enemy assets held by the Custodian is a considerable amount of property belonging to German or former German nationals not resident in Germany. These German nationals are either those who settled in Palestine long prior to 3rd September, 1939 or are the descendants of those settlers. This property is not accountable to the Inter-Allied Reparation Agency if it is released to owners who were not physically inside Germany or had their residence in Germany on 24th January, 1946, the operative date of the Paris Act. None of the owners are expected to take up residence in Germany. Some are already in Australia and have acquired British nationality as Australians. Some of the property of this category, which consists almost entirely of land,

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has been sold and the proceeds made available to the owners. In their provisions for administration of Palestine when the United Kingdom mandate ends the United Nations Commission is asked to include provision for continuance of the practice, based on equity and international practice, of release to the persons entitled of assets of this kind which are not required to be accounted for as reparations under the provisions of the Final Act.

17. There are also assets of Allied or Neutral persons, who were resident in enemy territory, e.g. Germany or Italy, which should similarly be released to the persons entitled.

V. UNDERTAKING AS TO CUSTODIAN HELD  
PROPERTY WHEN MANDATE ENDS

18. H.M. Government in the United Kingdom ask:-

- (i) For an assurance from the United Nations Commission that it recognises the responsibilities in respect of property under the control of the Palestine Custodian of Enemy Property, as described above, particularly those which have to be fulfilled, through H.M. Government in the United Kingdom, towards the Inter-Allied Reparation Agency; and
- (ii) for an undertaking from the United Nations Commission that, in any instrument for which the United Nations is responsible under which transfer of Government of Palestine is effected, there will be included suitable provisions requiring a successor authority to recognise the obligations and responsibilities as described and that those dischargeable towards the Inter-Allied Reparation Agency through H.M. Government will be so discharged.

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Registry  
No.

E4693/38/31

+50

(14th) April, 1948.

Top Secret  
Secret  
Confidential  
Restricted  
Open

J. G. S. B.

Sir,

With reference to my despatch

No. 22 of February 2nd I transmit to Your Excellency herewith two copies of a memorandum prepared in the Treasury on the subject of German enemy property and other assets under the control of the Palestine custodian.

Draft. DESPATCH

Sir Alexander  
Cadogan  
New York.

No. 198...

Mr. Ashby agrees

Copy to:  
Washington.  
(1 copy of enc.)  
Economic Relations Dept.  
first.

Mr. Ashby  
Appr. by

Copies:  
Co. (Mr. J. Gutch)  
Try. (Mr. Russell -  
Edmonds)

B/T (Mr. Leckie)  
Try. (Mr. E. Ashby)

in action

2. This memorandum embodies all the material comments which have been received from interested departments and the Government of Palestine since the Overseas Negotiations Committee paper was drafted and is in a form suitable for presentation to the United Nations Commission. Broadly, the position is that as much of the German property as possible ~~has~~ <sup>will be</sup> ~~being~~ <sup>now</sup> liquidated and transferred to the United Kingdom but that it ~~has been~~ <sup>will be</sup> physically impossible to liquidate quite a large amount. It is desirable to place this fact on record with the United Nations Commission as an indication of the limit which the termination of the mandate has placed upon British responsibilities in this matter. The memorandum will be an essential part of H.M. Government's defence against any claims by the Inter-Allied Reparations Agency that they should render account for German assets which it has proved impossible for them to secure.

3.   
4. I shall shortly be addressing general instructions to you in reply to your telegram No. 1097 of April 8th regarding the desirability of communicating with the United Nations

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(33654) W14680/147 75,000 6/47 A & E.W.Ltd. Gp. 585

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Nations Commission on those economic and financial problems arising from the withdrawal which have not yet been touched upon. Meanwhile I shall wish you in any case to communicate this memorandum as soon as practicable to the United Nations Commission for the reasons stated above.

2. I am sending a copy of this despatch to H.M. Ambassador at Washington.

3. Apart from the responsibilities of accounting for German enemy assets in Palestine, there are other responsibilities towards allied countries and ~~other~~ under Peace Treaties with former enemy Govts. These are fully described ~~summarised~~ in the memo. and it is considered that they, as well as the responsibility in regard to German assets, ~~area~~ should be the concern of the U.N. Commission and any successor authority.

*B.A.B.*

(Signed) B.A.B. Burrows.

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16 April, 1948.

No. 108  
(A 4693/58/31)

Confidential

Immediate

Sir,

With reference to my despatch No. 22 of 2nd February I transmit to Your Excellency herewith two copies of a memorandum prepared in the Treasury on the subject of German enemy property and other assets under the control of the Palestine custodian.

2. This memorandum embodies all the material comments which have been received from interested departments and the Government of Palestine since the Overseas Negotiations Committee paper was drafted and is in a form suitable for presentation to the United Nations Commission. Broadly, the position is that as much of the German property as possible is being liquidated and will be transferred to the United Kingdom but that it will be physically impossible to liquidate quite a large amount. It is desirable to place this fact on record with the United Nations Commission as an indication of the limit which the termination of the mandate has placed upon British responsibilities in this matter. The memorandum will be an essential part of His Majesty's Government's defence against any claims by the Inter-Allied Reparations Agency that they should render account for German assets which it has proved impossible for them to secure.

3. Apart from the responsibility of accounting for German enemy assets in Palestine, there are other responsibilities towards allied countries and under Peace Treaties with former enemy Governments. These are fully described in the memorandum and it is considered that they, as well as the responsibility in regard to German assets, should be the concern of the United Nations Commission and any successor authority.

4. I shall shortly be addressing general instructions to you in reply to your telegram No. 1097 of 8th April regarding the desirability of communicating with the United Nations Commission on those economic and financial problems arising from the withdrawal which have not yet been touched upon. Meanwhile I shall wish you in any case to communicate this memorandum as soon as practicable to the United Nations Commission for the reasons stated above.

5. I am sending a copy of this despatch to His Majesty's Ambassador at Washington.

I am, with great truth and respect,

Sir,

Your Excellency's obedient servant,  
(For the Secretary of State)

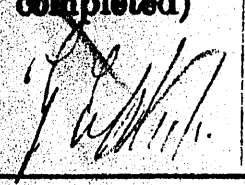
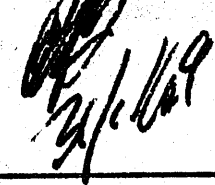
His Excellency  
The Right Honourable

Sir Alexander Cadogan, G.C.M.G., K.C.B.  
etc., etc., etc.,  
New York.

(Lgbl) B.A.B. Burrows

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23  1948	E  PALESTINE	E 5301 94 28 APR 1948
Registry Number } E5301/38/31 FROM Treasury No. Communicated Dated Received in Registry } 28th April	<u>German Assets in Palestine.</u> Copy of letter from J.E. Abbott Treasury to Mr. J. Gutch Colonial Office, referring to Mr. Gutch's letter of 23rd April (E5248/38/31) enclosing copy of Palestine telegram No, 1042 dated 19th April. Transmits comments on same.	
Last Paper 5248 References (Print) (How disposed of)	(Minutes.) <div style="text-align: right; margin-right: 50px;">           JB Apr. 28         </div> <p> <i>ER Sept. 2. 3.14</i>  <i>Gen - Finance Dept</i>  <i>See within:</i>  <i>Palestine telegram 1149 of April 26.</i>  <i>" " 1071 " " 21</i>  <i>ER D. Box 15</i>  <i>German Finance Dept 4p.</i>  <div style="text-align: right;">           JB May 25         </div> </p>	
(Action completed)  (Index)  Next Paper 5222		

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With Mr. J.E. Abbott's Compliments.

75872/154/17/2  
O.P. 85/27/1

5301

Enter  
TREASURY CHAMBERS.

95E

Dear Quitch,

28 APR 1948

25th April, 1948.

Your letter of the 23rd April, arrived on the eve of my departure for Paris from whence I shall not return until the end of the week. The draft of Clause 7 of the Order in Council sent by you on the 9th April to Cotes, copied to me, has been put by me to Speed for his comments which I hope we shall get early this week.

As to the proposal for the transfer to the Accountant General for Palestine of German enemy subjects and German communal bodies, described in telegram No. 1042 of 19th April from Palestine, in principle this seems to me to be a sensible and proper course and though I don't think the last six words of the proposed draft would ever be acceptable to Parliament I can see that a wide discretion is necessary.

What I do not quite understand is the proposal in telegram 1071 Parts I and II of 21st April which says that the monies of enemy subjects and communal bodies should be transferred to the United Kingdom Custodian. This conflicts with the proposal in 1042. If it is intended that under 1042 only such part of the funds is intended to be transferred as is essential to meet the expenses of evacuation and then to transfer any balance to the United Kingdom Custodian, I do not see any grounds for saddling the United Kingdom Custodian with this added burden which can be directly discharged so much more easily by the Crown Agents on information furnished by Mr. Flanagan and there in the Colonial Service responsible for meeting the expenses of evacuation and rehabilitation of the German enemy subjects. We can only reasonably ask our Custodian to take over responsibility for German enemy assets which we expect almost certainly are accountable to I.A.C.R.A.

This is necessarily a hurried note but I hope to be back in time for any discussions you may be having on this subject.

John Quitch, Esq.,  
Colonial Office.

Church House,  
Great Smith Street,  
S.W.1.

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28 APR 1948  
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8421 89A 82

I have copied to both Foreign Office, Carter Trading  
with the Navy Department and Kelvin Stark, Colonial Office.

Yours sincerely,

*J. E. Abbott*  
(J. E. ABBOTT)

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# INWARD TELEGRAM

TO THE SECRETARY OF STATE FOR THE COLONIES

En Clair

5301/38/31

FROM PALESTINE (Gen. Sir A. Cunningham)

D. 26th April, 1948.

R. 27th " " 06.40 hrs.

INDEXED

## IMPORTANT

No. 1149

asked for  
No 17.

Reference my telegram No. 1071 of 21st April, 1948, regarding property in the hands of the Custodian of Enemy Property.

This telegram relates to ex-satellite enemy property and Ecclesiastical property.

### 2. Ex-satellite Property.

It is not proposed to take any action. This will remain to be sorted out by a successor authority.

3. Ecclesiastical Authority. Lutheran property has now all been divested but will continue to be managed by Dr. Hall under arrangement already agreed by you. Catholic and other property has not yet been generally vested, but it has been divested where necessary and otherwise has been freed from Custodian control by the issue of the necessary licences under Section 3 of the Ordinance and Sections 3 and 6 of the Custodian Order.

### Copies sent to:-

Treasury

Trading with the Enemy  
Department

Foreign Office

- Mr. J.E. Abbott  
- Mr. H.R. Apperley  
- Mr. D. Carter  
- Mr. Crosthwaite  
- Mr. Beith

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# INWARD TELEGRAM

TO THE SECRETARY OF STATE FOR THE COLONIES

AMENDED COPY (corrections & underlined under (d))  
En Clair

5301/38/31

FROM PALESTINE (Gen. Sir A. Cunningham)

D. 21st April, 1948.

R. 22nd " " 06.45 hrs.

Part 1

No. 1071

INDEXED

Your telegram No. 1249.

Custodian of Enemy Property assets.

German property only is dealt with in this telegram.

2. Belligerent property is comprised of property of enemies (Category A) of enemy subjects (Category B) and of communal bodies (Category C). It consists of liquid assets, movable and immovable property.

The liquid assets in the hands of the Custodians are:-

(a) Deposits with the Accountant General totalling at 31st March, 1948, £457,000. This is comprised as follows:-

(I) Enemies	£420,000
(II) Enemy subjects	£ 37,000
(III) Communal bodies	nil.

(b) Deposits with Barclay's Anglo-Palestine and Ottoman Banks on current account totalling at 31st March, 1948, £21,500. This figure cannot be broken down in the time available.

(c) Receipts accruing during April on account of ordinary current transactions say £20,000.

(d) Extraordinary receipts accruing during April in respect of

(I) Insurance and compensation	£20,000
(II) Payments of back rents	£20,000
(III) Balance of German Community Fund	£47,000
(IV) Sale of Saroni lands	£280,000

(£280,000 has been received up to date. £350,000 is due from the Accountant General by way of Government loan to Tel Aviv Municipality. £1,011,000 is expected as cash payment before the 24th April. Total from these sales is £1,674,000 which is comprised as follows:-

(1) Enemies	£ 322,000
(2) Enemy subjects	£1,237,000
(3) Communal bodies	£ 115,000

Since drafting this telegram a further £625,000 has come to hand which has not yet been analysed. There is also in sight some £250,000 as account of sales to

/Bnei

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Bnei Brag and Ramat Gan, local Councils in same area, and possibly £400,000 for sale of Sarons village, making a gross total of £2,949,000.

3. It is impossible to complete the clerical work in time to provide the schedule required in paragraph 3 of your telegram No. 1249 in respect of any items except (a) (I). This will be supported by a schedule showing the names and addresses of persons to whom the amounts would have been payable but for the war. The other sums will be supported by original records, i.e. books of account, ledgers and files, which will be sent to the U.K. later.

4. You will have seen from my telegram No. 1027 that Germans are being evacuated and from my telegram No. 1042 that it is proposed to create a fund to cover the expenses of evacuation and rehabilitation from enemy subject assets in the hands of the Custodian.

5. See part 2 which follows in cypher.

6. The reasons for advocating a policy which, although it appears to fall within terms of draft Order-in-Council, may go beyond the intention of His Majesty's Government, are:-

(a) It is impossible to analyse the amounts as detailed in paragraph 2. The clerical work involved is beyond the ability of the office staff in present conditions.

(b) The majority of the persons entitled will be outside Palestine in British Territory or en route to British Territory. If their funds are not transferred they may ultimately become a charge on the British tax-payer.

7. The machinery by which such a policy would be put into effect would be:-

(i) The enactment of a provision in the Order-in-Council as proposed in your telegram No. 1249 with suitable additions to cover the points mentioned in paragraph 5 (c) and (d). There seems however to be no merit in specifying a figure. If no figure is specified, then Custodian will pay in all receipts to Accountant General and the exact figure can then be calculated during post-Mandate accounting.

(ii) The enactment of an Order-in-Council as proposed in my telegram No. 1042.

(iii) The appointment of Mr. M.J. Flanagan, the present Custodian, together with three or four clerks to join the Cyprus clearance office. He will complete his account up to 15th May and should within three months be able to render a full account of all the monies in paragraph 2. When this has been completed the books and records will be sent to the U.K. in proper order. There will of course be some £150,000 accruing in the form of fees to Palestine Government account from these funds.

8. See part 2 which follows in cypher.

9. If these proposals are adopted it should be possible to leave the belligerent assets in relatively

/fair

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fair order. A further telegram follows regarding satellite and ex-enemy property. Part 2 follows immediately.

\*Corrections received 24th April.

Copies sent to:-

- |                                 |                      |
|---------------------------------|----------------------|
| Treasury                        | - Mr. J.E. Abbott.   |
| "                               | - Mr. H.R. Apperley. |
| Trading with the<br>Enemy Dept. | - Mr. D. Carter.     |

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INWARD TELEGRAM

TO THE SECRETARY OF STATE FOR THE COLONIES INDEXED

Cypher (O.T.P.)

FROM PALESTINE (Gen. Sir A. Cunningham)

D. 21st April, 1948.

R. 22nd " " 06.45 hrs.

No. 1071 Part II

5. In the light of the above review of the situation it is suggested that the policy should be

(a) to direct Palestine Custodian to pay into fund such amount as may reasonably be expected to cover the cost of the evacuation and rehabilitation;

(b) to transfer to United Kingdom Custodian, balance of liquid funds of enemies, enemy subjects and communal bodies;

(c) in the unlikely event of the exhaustion of fund at (a) the Secretary of State would direct the United Kingdom Custodian to remit a further amount from the assets held by him;

(d) in the event of fund proving sufficient the United Kingdom Custodian would take powers to divest himself of the balance of enemy subject properties by distribution to persons entitled.

6. As regards movable and immovable properties, Custodian will divest himself of all enemy subject and communal body properties other than liquid cash. This can be done by order which thereupon enables persons entitled to deal with property. Such a simple devolution of responsibility is not practicable in dealing (with) cash assets which involve a lot of clerical and accounting work. The movable property will probably be pillaged and this emphasises the importance of transferring cash assets. It is hoped that at a later stage they will be able to re-establish title to immovable property.

Copies sent to:-

Treasury	-	Mr. J.E. Abbott.
"	-	Mr. H.R. Apperley.
Trading with the Enemy Department	-	Mr. D. Carter.

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E 5777

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1948

PALESTINE

6 MAY 1948

Registry Number E5777/38/31

FROM

Colonial Office

No.

Communicated

Dated

Received

in Registry

6th May

German Assets in Palestine.

Copy of letter from J. Gutch Colonial Office  
75872/154/17/2/48 of 29th April to J. E. Abbott  
Treasury referring to Mr. Abbott's letter O.F. 85/  
27/1 of 26th April (5301/38/31) Now encloses amended  
draft of Clause 7 of the draft Order in Council.

Last Paper

5301

References

(Print)

(How disposed of)

(Action  
completed)

J.P.M. 12/1

(Index)

31/1/48

Next Paper

E6294

(Minutes.)

J. P. P. D. Carter (Trading with the Enemy Dept)  
J.E.N. 2283 1st May to J. Gutch

J. E. Abbott. J.P. of 85/27/1 to J. Gutch 4/5  
J. O. Minute M. Evans 4/5

E.R. Dept 22/5

JB May 6

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attached to  
Gutek's letter  
of 29<sup>th</sup> April.

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See Mr Gutche's letter of 29<sup>th</sup> April & Mr Carter's letter of 1<sup>st</sup> May attached.

1E

2. I object to the words "until the termination of the present war with Germany". I said that the termination of the war is an uncertain event. Some lawyers maintain that it has already terminated, and it is probable that there will be no general declaration of the end of war with Germany. Moreover it might be objectionable from a political point of view to imply in an Order in Council that the war with Germany still continues.

3. To get over the difficulty I suggested that the words "until the termination" to the end of the clause might be deleted. In my opinion this would not substantially affect the meaning.

4. Mr. Carter pointed out that the termination of the war with Germany is referred to in other legislation, for instance in Article 34 of the Trading with the Enemy (Custodian) Order, 1939. However, he saw no serious objection to my suggestion. Mr. Gutch was prepared to agree to anything agreed to by Mr. Carter and Mr. Abbott. I think I succeeded in persuading Mr. Abbott that it would be best to adopt my suggestion, but before finally making up his mind he was going to consult other authorities in the Treasury and Mr. Speed. He will inform us further.

WV9 Evans

WV9 K v omu

Eastern ~~Sh.~~  
E. R. ~~Sh.~~  
1815

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2. H. 1.

29th April, 1948.

6 MAY 1948

During your absence in Paris Dale has considered Speed's letter to you of the 26th April and has agreed with him an amended draft. Clause 7 of the draft Order in Council. I enclose a copy of this amended draft. The wording used in this draft fully covers both of Speed's points. Dale agrees of course that Regulation 4 (3 A) of the Trading with the Enemy Regulations will not apply - neither will any of the United Kingdom Trading with the Enemy legislation. The only provision affecting the Custodian in respect of Palestine money will be Clause 7 of the Order now under consideration, which leaves the destination of the money entirely under the control of the Treasury.

**/anything**

**J. E. ABBOTT, ESQ.**

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RECEIVED IN O.B.
5 MAY 1949
SENT TO DEPT.

- 2 -

anything to be gained by troubling them further on this point and Dale cannot think of anything better than the words which he has used in the enclosed draft.

With regard to the fund mentioned in Palestine telegram No. 1042 and the proposed addition to the Order given in paragraph 4 of that telegram, the question of how this fund is going to be handled after the termination of the Mandate is still undecided, although it is agreed by all concerned that this responsibility should not devolve upon the United Kingdom Custodian. Moreover, it seems to be doubtful whether there will in fact be any fund on the appointed day and we therefore think that it will be best to omit any provision dealing with this subject. If it transpires that there is something left in this fund it can probably be administered temporarily under cover of the Palestine Order which the High Commissioner has made for the purpose of instituting the fund. If at a later stage it is necessary to have some provision here to deal with the fund it can be attended to at a later stage.

We had hoped to have a meeting in the course of this week to settle the draft of Clause 7 of the Order in Council, but owing to your absence in Paris and the fact that Dale is going on short leave at the end of this week, it has not been possible to arrange such a meeting. We hope therefore that all concerned will now be able to agree on Dale's draft without the necessity for further discussion.

/1

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**Enemy Property.**

7. The monies representing Germany enemy assets held immediately before the appointed day by the Palestine Custodian of Enemy Property shall on the appointed day be transferred to and vest in the Custodian of Enemy Property for England, appointed under section seven of the Trading with the Enemy Act, 1939 and shall be held by him, except in so far as the Treasury may otherwise direct, until the termination of the present war with Germany, and shall thereafter be disposed of by him as the Treasury shall direct.

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*1/12/40 Mr. [unclear] said that his [unclear] to go against dept of  
and it was with Germany. Some people say that it has already  
come to an end.  
London's call*

ADMINISTRATION OF ENEMY PROPERTY DEPARTMENT

E 1774 / 28 / 71

GEN. 2583

12. May, 1948.

INDEXED

Dear Sir,

I have discussed with Gregory your letter of the 25th April to Abbott. We have no observations on the new draft of Clause 7 enclosed therewith.

I am somewhat surprised by your remark that Regulation 6(1) of the Trading with the Enemy Regulations will not apply. Even if your statement is correct I should have thought it fundamental since the Commission can now make that Regulation only on a direction from the Secretary, which appears to be precisely the position which would be established by the new draft of Clause 7. In a word, the new draft would appear to require us to implement any later Commission agreement with regard to the transferred assets in the unlikely event that such action may be required.

Perhaps your hope that a meeting is now unnecessary.

I am copying this letter to Miss Gutteridge and Abbott.

Yours sincerely,

D. Carter

(D. CARTER)

J. Carter, Esq.,  
Colonial Office,  
Rover House,  
Downing Street, S.W.1.

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END

John Gutch, Esq.,  
Colonial Office.  
Church House,  
Great Smith Street,  
S.W.1.

✓ **100%**

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"the Treasury may otherwise direct". This will mean some consequential alteration of the preceding words of the Clause which should now read as follows:-

- "7. The monies representing Germany enemy assets held immediately before the appointed day by the Palestine Custodian of Enemy Property shall on the appointed day be transferred to and vest in the Custodian of Enemy Property for England, appointed under section seven of the Trading with the Enemy Act, 1939 and shall be held by him and disposed of as the Treasury may direct."

There may be some trouble with critics but we must in any case take the risk of this and I think we have a good answer by reference to powers under existing legislation and to the position which now obtains having regard to the Potsdam Agreement and the Final Act of Paris.

I have copied this to Evans (Foreign Office), Carter (Trading with the Enemy Department), Speed (Treasury Solicitor's Department).

Yours sincerely,

J. E. ABBOTT

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